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AN ACT

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.—This Act may be cited as
4 the “Foreign Service Act of 1980”.

5 SEC. 2. TABLE OF CONTENTS.—The table of contents
6 for this Act is as follows:

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CHAPTER 1—GENERAL PROVISIONS

4 SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Con-
5 gress finds that—

1 State in conducting the foreign affairs of the United
2 States;

3 (2) the scope and complexity of the foreign affairs
4 of the Nation have heightened the need for a profes-
5 sional foreign service that will serve the foreign affairs
6 interests of the United States in an integrated fashion
7 and that can provide a resource of qualified personnel
8 for the President, the Secretary of State, and the agen-
9 cies concerned with foreign affairs;

10 (3) the Foreign Service of the United States, es-
11 tablished under the Act of May 24, 1924 (commonly
12 known as the Rogers Act) and continued by the For-
13 eign Service Act of 1946, must be preserved, strength-
14 ened, and improved in order to carry out its mission
15 effectively in response to the complex challenges of
16 modern diplomacy and international relations;

17 (4) the members of the Foreign Service should be
18 representative of the American people, aware of the
19 principles and history of the United States and in-
20 formed of current concerns and trends in American life,
21 knowledgeable of the affairs, cultures, and languages of
22 other countries, and available to serve in assignments
23 throughout the world; and

24 (5) the Foreign Service should be operated on the
25 basis of merit principles.

1 (b) The objective of this Act is to strengthen and im-
2 prove the Foreign Service of the United States by—

3 (1) assuring, in accordance with merit principles,
4 admission through impartial and rigorous examination,
5 acquisition of career status only by those who have
6 demonstrated their fitness through successful comple-
7 tion of probationary assignments, effective career de-
8 velopment, advancement and retention of the ablest,
9 and separation of those who do not meet the requisite
10 standards of performance;

11 (2) fostering the development and vigorous imple-
12 mentation of policies and procedures, including affirma-
13 tive action programs, which will facilitate and encour-
14 age (A) entry into and advancement in the Foreign
15 Service by persons from all segments of American soci-
16 ety, and (B) equal opportunity and fair and equitable
17 treatment for all without regard to political affiliation,
18 race, color, religion, national origin, sex, marital
19 status, age, or handicapping condition;

20 (3) providing for more efficient, economical, and
21 equitable personnel administration through a simplified
22 structure of Foreign Service personnel categories and
23 salaries;

24 (4) establishing a statutory basis for participation
25 by the members of the Foreign Service, through their

1 elected representatives, in the formulation of personnel
2 policies and procedures which affect their conditions of
3 employment, and maintaining a fair and effective
4 system for the resolution of individual grievances;

5 (5) minimizing the impact of the hardships, disruptions,
6 and other unusual conditions of service abroad
7 upon the members of the Foreign Service, and mitigating
8 the special impact of such conditions upon their
9 families;

10 (6) providing salaries, allowances, and benefits
11 that will permit the Foreign Service to attract and
12 retain qualified personnel as well as a system of incentive
13 payments and awards to encourage and reward
14 outstanding performance;

15 (7) establishing a Senior Foreign Service which is
16 characterized by strong policy formulation capabilities,
17 outstanding executive leadership qualities, and highly
18 developed functional and area expertise;

19 (8) improving Foreign Service managerial flexibility
20 and effectiveness;

21 (9) increasing efficiency and economy by promoting
22 maximum compatibility among the agencies authorized
23 by law to utilize the Foreign Service personnel
24 system, as well as compatibility between the Foreign

1 Service personnel system and other personnel systems
2 of the Government; and

3 (10) otherwise enabling the Foreign Service to
4 serve effectively the interests of the United States and
5 to provide the highest caliber of representation in the
6 conduct of foreign affairs.

7 SEC. 102. DEFINITIONS.—(a) As used in this Act, the
8 term—

9 (1) "abroad" means all areas not included within
10 the United States;

11 (2) "agency" means an agency as defined in sec-
12 tion 552(e) of title 5, United States Code;

13 (3) "chief of mission" means the principal officer
14 in charge of a diplomatic mission of the United States
15 or of a United States office abroad which is designated
16 by the Secretary of State as diplomatic in nature, in-
17 cluding any individual assigned under section 502(c) to
18 be temporarily in charge of such a mission or office;

19 (4) "Department" means the Department of
20 State, except that with reference to the exercise of
21 functions under this Act with respect to another
22 agency authorized by law to utilize the Foreign Serv-
23 ice personnel system, such term means that other
24 agency;

1 (5) "employee" (except as provided in section
2 1002(8)) means, when used with respect to an agency
3 or to the Government generally, an officer or employee
4 (including a member of the Service) or a member of the
5 Armed Forces of the United States, the commissioned
6 corps of the Public Health Service, or the commis-
7 sioned corps of the National Oceanic and Atmospheric
8 Administration;

9 (6) "function" includes any duty, obligation,
10 power, authority, responsibility, right, privilege, discre-
11 tion, or activity;

12 (7) "Government" means the Government of the
13 United States;

14 (8) "merit principles" means the principles set out
15 in section 2301(b) of title 5, United States Code;

16 (9) "principal officer" means the officer in charge
17 of a diplomatic mission, consular mission (other than a
18 consular agency), or other Foreign Service post;

19 (10) "Secretary" means the Secretary of State,
20 except that (subject to section 201(b)) with reference to
21 the exercise of functions under this Act with respect to
22 any agency authorized by law to utilize the Foreign
23 Service personnel system, such term means the head of
24 that agency;

(11) "Service" or "Foreign Service" means the Foreign Service of the United States; and

3 (12) "United States", when used in a geographic
4 sense, means the several States and the District of
5 Columbia.

6 (b) References in this Act or any other law to “Foreign
7 Service officers” shall, with respect to the International
8 Communication Agency, be deemed to refer to Foreign Serv-
9 ice information officers.

10 **SEC. 103. MEMBERS OF THE SERVICE.**—The following
11 are the members of the Service:

12 (1) Chiefs of mission, appointed under section
13 302(a)(1) or assigned under section 502(c).

23 (5) Foreign Service personnel, United States citi-
24 zens appointed under section 303, who provide skills

1 and services required for effective performance by the
2 Service.

3 (6) Foreign national employees, foreign nationals
4 appointed under section 303, who provide clerical, ad-
5 ministrative, technical, fiscal, and other support at For-
6 eign Service posts abroad.

7 (7) Consular agents, appointed under section 303
8 by the Secretary of State, who provide consular and
9 related services as authorized by the Secretary of State
10 at specified locations abroad where no Foreign Service
11 posts are situated.

12 SEC. 104. FUNCTIONS OF THE SERVICE.—Members of
13 the Service shall, under the direction of the Secretary—

14 (1) represent the interests of the United States in
15 relation to foreign countries and international organiza-
16 tions, and perform the functions relevant to their ap-
17 pointments and assignments, including (as appropriate)
18 functions under the Vienna Convention on Diplomatic
19 Relations, the Vienna Convention on Consular Rela-
20 tions, other international agreements to which the
21 United States is a party, the laws of the United States,
22 and orders, regulations, and directives issued pursuant
23 to law;

24 (2) provide guidance for the formulation and con-
25 duct of programs and activities of the Department and

1 other agencies which relate to the foreign relations of
2 the United States; and

3 (3) perform functions on behalf of any agency or
4 other Government establishment (including any estab-
5 lishment in the legislative or judicial branch) requiring
6 their services.

7 SEC. 105. MERIT PRINCIPLES; PROTECTIONS FOR
8 MEMBERS OF THE SERVICE; AND MINORITY RECRUIT-
9 MENT.—(a)(1) All personnel actions with respect to career
10 members and career candidates in the Service (including ap-
11 plicants for career candidate appointments) shall be made in
12 accordance with merit principles.

13 (2) For purposes of paragraph (1), the term "personnel
14 action" means—

15 (A) any appointment, promotion, assignment (in-
16 cluding assignment to any position or salary class),
17 award of performance pay or special differential,
18 within-class salary increase, separation, or performance
19 evaluation, and

20 (B) any decision, recommendation, examination, or
21 ranking provided for under this Act which relates to
22 any action referred to in subparagraph (A).

23 (b) The Secretary shall administer the provisions of this
24 Act and shall prescribe such regulations as may be necessary

1 to ensure that members of the Service, as well as applicants
2 for appointments in the Service—

3 (1) are free from discrimination on the basis of
4 race, color, religion, sex, national origin, age, handi-
5 capping condition, marital status, or political affiliation,
6 as prohibited under section 2302(b)(1) of title 5, United
7 States Code;

8 (2) are free from reprisal for—

9 (A) a disclosure of information by a member
10 or applicant which the member or applicant rea-
11 sonably believes evidences—

12 (i) a violation of any law, rule, or regu-
13 lation, or

14 (ii) mismanagement, a gross waste of
15 funds, an abuse of authority, or a substantial
16 and specific danger to public health or
17 safety,

18 if such disclosure is not specifically prohibited by
19 law and if such information is not specifically re-
20 quired by Executive order to be kept secret in the
21 interest of national defense or the conduct of for-
22 eign affairs; or

23 (B) a disclosure to the Special Counsel of the
24 Merit Systems Protection Board, or to the Inspec-
25 tor General of an agency (including the Inspector

1 General of the Department of State and the For-
2 eign Service) or another employee designated by
3 the head of the agency to receive such disclo-
4 sures, of information which the member or appli-
5 cant reasonably believes evidences—

6 (i) a violation of any law, rule, or regu-
7 lation, or

8 (ii) mismanagement, a gross waste of
9 funds, an abuse of authority, or a substantial
10 and specific danger to public health or
11 safety;

12 (3) are free to submit to officials of the Service
13 and the Department any report, evaluation, or recom-
14 mendation, including the right to submit such report,
15 evaluation, or recommendation through a separate dis-
16 sent channel, whether or not the views expressed
17 therein are in accord with approved policy, unless the
18 report, evaluation, or recommendation was submitted
19 with the knowledge that it was false or with willful
20 disregard for its truth or falsity; and

21 (4) are free from any personnel practice prohibited
22 by section 2302 of title 5, United States Code.

23 (c) This section shall not be construed as authorizing the
24 withholding of information from the Congress or the taking of

1 any action against a member of the Service who discloses
2 information to the Congress.

3 (d)(1) The Secretary shall establish a minority recruit-
4 ment program for the Service consistent with section 7201 of
5 title 5, United States Code.

6 (2) Not later than January 31 of each year, the Secre-
7 tary shall transmit to each House of the Congress a report,
8 signed by the Secretary, on the activities of the Secretary
9 under paragraph (1). Such report shall include any affirma-
10 tive action plans submitted by the Secretary under section
11 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16)
12 and any data necessary to evaluate the effectiveness of the
13 program under paragraph (1) for the preceding fiscal year,
14 together with recommendations for administrative or legisla-
15 tive action the Secretary considers appropriate.

16 (e) This section shall not be construed to extinguish or
17 lessen any effort to achieve equal employment opportunity
18 through affirmative action or any right or remedy available to
19 any employee or applicant for employment in the civil service
20 under—

21 (1) section 717 of the Civil Rights Act of 1964
22 (42 U.S.C. 2000e-16), prohibiting discrimination on
23 the basis of race, color, religion, sex, or national origin;

1 (2) sections 12 and 15 of the Age Discrimination
2 in Employment Act of 1967 (29 U.S.C. 631, 633a),
3 prohibiting discrimination on the basis of age;

4 (3) section 6(d) of the Fair Labor Standards Act
5 of 1938 (29 U.S.C. 206(d)), prohibiting discrimination
6 on the basis of sex;

7 (4) sections 501 and 505 of the Rehabilitation Act
8 of 1973 (29 U.S.C. 791, 794a), prohibiting discrimina-
9 tion on the basis of handicapping condition; or

10 (5) any provision of law, rule, or regulation pro-
11 hibiting discrimination on the basis of marital status or
12 political affiliation.

13 **CHAPTER 2—MANAGEMENT OF THE SERVICE**

14 **SEC. 201. THE SECRETARY OF STATE.**—(a) Under the
15 direction of the President, the Secretary of State shall admin-
16 ister and direct the Service and shall coordinate its activities
17 with the needs of the Department of State and other
18 agencies.

19 (b) The Secretary of State alone among the heads of
20 agencies utilizing the Foreign Service personnel system shall
21 perform the functions expressly vested in the Secretary of
22 State by this Act.

23 **SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN**
24 **SERVICE PERSONNEL SYSTEM.**—(a)(1) The Director of the
25 International Communication Agency and the Director of the

1 United States International Development Cooperation
2 Agency may utilize the Foreign Service personnel system
3 with respect to their respective agencies in accordance with
4 this Act.

5 (2) The Secretary of Agriculture may utilize the Foreign
6 Service personnel system in accordance with this Act—

7 (A) with respect to personnel of the Foreign Agri-
8 cultural Service, and

9 (B) with respect to other personnel of the Depart-
10 ment of Agriculture to the extent the President deter-
11 mines to be necessary in order to enable the Depart-
12 ment of Agriculture to carry out functions which re-
13 quire service abroad.

14 (3) The Secretary of Commerce may utilize the Foreign
15 Service personnel system in accordance with this Act—

16 (A) with respect to the personnel performing func-
17 tions transferred to the Department of Commerce from
18 the Department of State by Reorganization Plan Num-
19 bered 3 of 1979, and

20 (B) with respect to other personnel of the Depart-
21 ment of Commerce to the extent the President deter-
22 mines to be necessary in order to enable the Depart-
23 ment of Commerce to carry out functions which require
24 service abroad.

25 (b) Subject to section 201(b)—

1 (1) the agency heads referred to in subsection (a),

2 and

3 (2) the head of any other agency (to the extent
4 authority to utilize the Foreign Service personnel
5 system is granted to such agency head under any other
6 Act),

7 shall in the case of their respective agencies exercise the
8 functions vested in the Secretary by this Act.

9 **SEC. 203. COMPATIBILITY AMONG AGENCIES UTILIZ-**
10 **ING THE FOREIGN SERVICE PERSONNEL SYSTEM.**—(a) The
11 Service shall be administered to the extent practicable in a
12 manner that will assure maximum compatibility among the
13 agencies authorized by law to utilize the Foreign Service per-
14 sonnel system. To this end, the other heads of such agencies
15 shall consult regularly with the Secretary of State.

16 (b) Nothing in this chapter shall be construed as dimin-
17 ishing the authority of the head of any agency authorized by
18 law to utilize the Foreign Service personnel system.

19 **SEC. 204. CONSOLIDATED AND UNIFORM ADMINIS-**
20 **TRATION OF THE SERVICE.**—The Secretary shall on a con-
21 tinuing basis consider the need for uniformity of personnel
22 policies and procedures and for consolidation (in accordance
23 with section 23 of the State Department Basic Authorities
24 Act of 1956 (22 U.S.C. 2695)) of personnel functions among
25 agencies utilizing the Foreign Service personnel system.

1 Where feasible, the Secretary of State shall encourage (in
2 consultation with the other heads of such agencies) the devel-
3 opment of uniform policies and procedures and consolidated
4 personnel functions.

5 SEC. 205. COMPATIBILITY BETWEEN THE FOREIGN
6 SERVICE AND OTHER GOVERNMENT PERSONNEL Sys-
7 TEMS.—The Service shall be administered to the extent
8 practicable in conformity with general policies and regula-
9 tions of the Government. The Secretary shall consult with
10 the Director of the Office of Personnel Management, the Di-
11 rector of the Office of Management and Budget, and the
12 heads of such other agencies as the President shall deter-
13 mine, in order to assure compatibility of the Foreign Service
14 personnel system with other Government personnel systems
15 to the extent practicable.

16 SEC. 206. REGULATIONS; DELEGATION OF FUNC-
17 TIONS.—(a) The Secretary may prescribe such regulations as
18 the Secretary deems appropriate to carry out functions under
19 this Act.

20 (b) The Secretary may delegate functions under this Act
21 which are vested in the Secretary to any employee of the
22 Department or any member of the Service.

23 SEC. 207. CHIEF OF MISSION.—(a) Under the direction
24 of the President, the chief of mission to a foreign country—

1 (1) shall have full responsibility for the direction,
2 coordination, and supervision of all Government em-
3 ployees in that country (except for employees under
4 the command of a United States area military com-
5 mander); and

6 (2) shall keep fully and currently informed with
7 respect to all activities and operations of the Govern-
8 ment within that country, and shall insure that all
9 Government employees in that country (except for em-
10 ployees under the command of a United States area
11 military commander) comply fully with all applicable
12 directives of the chief of mission.

13 (b) Any agency having employees in a foreign country
14 shall keep the chief of mission to that country fully and cur-
15 rently informed with respect to all activities and operations of
16 its employees in that country, and shall insure that all of its
17 employees in that country (except for employees under the
18 command of a United States area military commander)
19 comply fully with all applicable directives of the chief of
20 mission.

21 SEC. 208. DIRECTOR GENERAL OF THE FOREIGN
22 SERVICE.—There shall be a Director General of the Foreign
23 Service, who shall be appointed by the President, by and
24 with the advice and consent of the Senate, from among the
25 career members of the Senior Foreign Service. The Director

1 General shall assist the Secretary of State in the management
2 of the Service and shall perform such functions as the
3 Secretary of State may prescribe.

4 SEC. 209. INSPECTOR GENERAL.—(a)(1) There shall
5 be an Inspector General of the Department of State and the
6 Foreign Service, who shall be appointed by the President, by
7 and with the advice and consent of the Senate, without
8 regard to political affiliation from among individuals exception-
9 ally qualified for the position by virtue of their integrity,
10 and their demonstrated ability in accounting, auditing, financial
11 analysis, law, management analysis, public administra-
12 tion, investigations, or their knowledge and experience in the
13 conduct of foreign affairs. The Inspector General shall report
14 to and be under the general supervision of the Secretary of
15 State. Neither the Secretary of State nor any other officer of
16 the Department shall prevent or prohibit the Inspector Gen-
17 eral from initiating, carrying out, or completing any audit or
18 investigation, or from issuing any subpoena during the course
19 of any audit or investigation. The Inspector General shall
20 periodically (at least every 5 years) inspect and audit the
21 administration of activities and operations of each Foreign
22 Service post and each bureau and other operating unit of the
23 Department of State, and shall perform such other functions
24 as the Secretary of State may prescribe, except that the Sec-

1 retary of State shall not assign to the Inspector General any
2 program operating responsibilities.

3 (2) The Inspector General may be removed from office
4 by the President. The President shall communicate the rea-
5 sons for any such removal to both Houses of Congress.

6 (3) The Inspector General shall, in accordance with ap-
7 plicable law governing the civil service—

8 (A) appoint an Assistant Inspector General for
9 Auditing who shall have the responsibility for supervis-
10 ing the performance of auditing activities under this
11 section; and

12 (B) appoint an Assistant Inspector General for In-
13 vestigations who shall have the responsibility for su-
14 pervising the performance of investigative activities
15 under this section.

16 (b) Inspections, investigations, and audits conducted by
17 or under the direction of the Inspector General shall include
18 the systematic review and evaluation of the administration of
19 activities and operations of Foreign Service posts and bu-
20 reaus and other operating units of the Department of State,
21 including an examination of—

22 (1) whether financial transactions and accounts
23 are properly conducted, maintained, and reported;

1 (2) whether resources are being used and man-
2 aged with the maximum degree of efficiency, effective-
3 ness, and economy;

4 (3) whether the administration of activities and
5 operations meets the requirements of applicable laws
6 and regulations and, specifically, whether such admin-
7 istration is consistent with the requirements of section
8 105;

9 (4) whether there exist instances of fraud or other
10 serious problems, abuses, or deficiencies, and whether
11 adequate steps for detection, correction, and prevention
12 have been taken; and

13 (5) whether policy goals and objectives are being
14 effectively achieved and whether the interests of the
15 United States are being accurately and effectively
16 represented.

17 (c)(1) The Inspector General shall develop and imple-
18 ment policies and procedures for the inspection and audit ac-
19 tivities carried out under this section. These policies and pro-
20 cedures shall be consistent with the general policies and
21 guidelines of the Government for inspection and audit activi-
22 ties and shall comply with the standards established by the
23 Comptroller General of the United States for audits of Gov-
24 ernment agencies, organizations, programs, activities, and
25 functions.

1 (2) In carrying out the duties and responsibilities estab-
2 lished under this section, the Inspector General shall give
3 particular regard to the activities of the Comptroller General
4 of the United States with a view toward insuring effective
5 coordination and cooperation.

6 (3) In carrying out the duties and responsibilities estab-
7 lished under this section, the Inspector General shall report
8 expeditiously to the Attorney General whenever the Inspec-
9 tor General has reasonable grounds to believe there has been
10 a violation of Federal criminal law.

11 (d)(1) The Inspector General shall keep the Secretary of
12 State fully and currently informed, by means of the reports
13 required by paragraphs (2) and (3) and otherwise, concerning
14 fraud and other serious problems, abuses, and deficiencies re-
15 lating to the administration of activities and operations ad-
16 ministered or financed by the Department of State.

17 (2) The Inspector General shall, not later than April 30
18 of each year, prepare and furnish to the Secretary of State an
19 annual report summarizing the activities of the Inspector
20 General. Such report shall include—

21 (A) a description of significant problems, abuses,
22 and deficiencies relating to the administration of activi-
23 ties and operations of Foreign Service posts, and bu-
24 reaus and other operating units of the Department of

1 State, which were disclosed by the Inspector General
2 within the reporting period;

3 (B) a description of the recommendations for cor-
4 rective action made by the Inspector General during
5 the reporting period with respect to significant prob-
6 lems, abuses, or deficiencies described pursuant to sub-
7 paragraph (A);

8 (C) an identification of each significant recommen-
9 dation described in previous annual reports on which
10 corrective action has not been completed;

11 (D) a summary of matters referred to prosecutive
12 authorities and the prosecutions and convictions which
13 have resulted; and

14 (E) a listing of each audit report completed by the
15 Inspector General during the reporting period.

16 The Secretary of State shall transmit a copy of such annual
17 report within 30 days after receiving it to the Committee on
18 Foreign Relations of the Senate and the Committee on For-
19 eign Affairs of the House of Representatives and to other
20 appropriate committees, together with a report of the Secre-
21 tary of State containing any comments which the Secretary
22 of State deems appropriate. Within 60 days after transmit-
23 ting such reports to those committees, the Secretary of State
24 shall make copies of them available to the public upon re-
25 quest and at a reasonable cost.

1 (3) The Inspector General shall report immediately to
2 the Secretary of State whenever the Inspector General be-
3 comes aware of particularly serious or flagrant problems,
4 abuses, or deficiencies relating to the administration of activi-
5 ties and operations of Foreign Service posts or bureaus or
6 other operating units of the Department of State. The Secre-
7 tary of State shall transmit any such report to the Committee
8 on Foreign Relations of the Senate and the Committee on
9 Foreign Affairs of the House of Representatives and to other
10 appropriate committees within 7 days after receiving it, to-
11 gether with a report by the Secretary of State containing any
12 comments the Secretary of State deems appropriate.

13 (4) Nothing in this subsection shall be construed to au-
14 thorize the public disclosure by any individual of any informa-
15 tion which is—

16 (A) specifically prohibited from disclosure by any
17 other provision of law; or

18 (B) specifically required by Executive order to be
19 kept secret in the interest of national defense or the
20 conduct of foreign affairs.

21 (e)(1) The Inspector General shall have the same au-
22 thority in carrying out the provisions of this section as is
23 granted under section 6 of the Inspector General Act of 1978
24 to each Inspector General of an establishment (as defined in
25 section 11(2) of such Act) for carrying out the provisions of

1 that Act, and the responsibilities of other officers of the Gov-
2 ernment to the Inspector General shall be the same as the
3 responsibilities of the head of an agency or establishment
4 under section 6 (b) and (c) of such Act.

5 (2) At the request of the Inspector General, employees
6 of the Department and members of the Service may be as-
7 signed as employees of the Inspector General. The individ-
8 uals so assigned and individuals appointed pursuant to para-
9 graph (1) shall be responsible solely to the Inspector General,
10 and the Inspector General shall prepare the performance
11 evaluation reports for such individuals.

12 (f)(1) The Inspector General may receive and investi-
13 gate complaints of information from a member of the Service
14 or employee of the Department concerning the possible exist-
15 ence of an activity constituting a violation of laws or regula-
16 tions, constituting mismanagement, gross waste of funds, or
17 abuse of authority, or constituting a substantial and specific
18 danger to public health or safety.

19 (2) The Inspector General shall not, after receipt of a
20 complaint or information from a member of the Service or
21 employee of the Department, disclose the identity of such
22 individual without the consent of such individual, unless the
23 Inspector General determines such disclosure is unavoidable
24 during the course of the investigation.

1 (g) Under the general supervision of the Secretary of
2 State, the Inspector General may review activities and oper-
3 ations performed under the direction, coordination, and su-
4 pervision of chiefs of mission for the purpose of ascertaining
5 their consonance with the foreign policy of the United States
6 and their consistency with the responsibilities of the Secre-
7 tary of State and the chief of mission.

8 SEC. 210. BOARD OF THE FOREIGN SERVICE.—The
9 President shall establish a Board of the Foreign Service to
10 advise the Secretary of State on matters relating to the Serv-
11 ice, including furtherance of the objectives of maximum com-
12 patibility among agencies authorized by law to utilize the
13 Foreign Service personnel system and compatibility between
14 the Foreign Service personnel system and the other person-
15 nel systems of the Government. The Board of the Foreign
16 Service shall be chaired by a career member of the Senior
17 Foreign Service designated by the Secretary of State and
18 shall include one or more representatives of the Department
19 of State, the International Communication Agency, the
20 United States International Development Cooperation
21 Agency, the Department of Agriculture, the Department of
22 Commerce, the Department of Labor, the Office of Personnel
23 Management, the Office of Management and Budget, the
24 Equal Employment Opportunity Commission, and such other
25 agencies as the President may designate.

1 SEC. 211. BOARD OF EXAMINERS FOR THE FOREIGN
2 SERVICE.—(a) The President shall establish a Board of Ex-
3 aminers for the Foreign Service to develop, and supervise the
4 administration of, examinations prescribed under section
5 301(b) to be given to candidates for appointment in the Serv-
6 ice. The Board shall consist of 15 members appointed by the
7 President (no fewer than 5 of whom shall be appointed from
8 among individuals who are not Government employees and
9 who shall be qualified for service on the Board by virtue of
10 their knowledge, experience, or training in the fields of test-
11 ing or equal employment opportunity). The Board shall in-
12 clude representatives of agencies utilizing the Foreign Serv-
13 ice personnel system and representatives of other agencies
14 which have responsibility for employment testing. The Board
15 shall be chaired by a member of the Board, designated by the
16 President, who is a member of the Service.

17 (b) The Board of Examiners shall periodically review
18 the examinations prescribed under section 301(b) in order to
19 determine—

20 (1) whether any such examination has an adverse
21 impact on the hiring, promotion, or other employment
22 opportunity of members of any race, sex, or ethnic
23 group;

24 (2) methods of minimizing any such adverse
25 impact;

1 (3) alternatives to any examinations which have
2 such an adverse impact; and

3 (4) whether such examinations are valid in rela-
4 tion to job performance.

5 The Board of Examiners shall annually report its findings
6 under this subsection to the Secretary of State and shall fur-
7 nish to the Secretary of State its recommendations for im-
8 provements in the development, use, and administration of
9 the examinations prescribed under section 301(b).

10 (c) Any vacancy or vacancies on the Board shall not
11 impair the right of the remaining members to exercise the full
12 powers of the Board.

13 **CHAPTER 3—APPOINTMENTS**

14 SEC. 301. GENERAL PROVISIONS RELATING TO AP-
15 POINTMENTS.—(a) Only citizens of the United States may be
16 appointed to the Service, other than for service abroad as a
17 consular agent or as a foreign national employee.

18 (b) The Secretary shall prescribe, as appropriate, writ-
19 ten, oral, physical, and other examinations for appointment to
20 the Service (other than as a chief of mission or ambassador at
21 large).

22 (c) The fact that an applicant for appointment as a For-
23 eign Service officer candidate is a veteran or disabled veteran
24 shall be considered an affirmative factor in making such ap-
25 pointments. As used in this subsection, the term "veteran or

1 disabled veteran" means an individual who is a preference
2 eligible under subparagraph (A), (B), or (C) of section 2108(3)
3 of title 5, United States Code.

4 (d)(1) Members of the Service serving under career ap-
5 pointments are career members of the Service. Members of
6 the Service serving under limited appointments are either
7 career candidates or noncareer members of the Service.

8 (2) Chiefs of mission, ambassadors at large, and minis-
9 ters serve at the pleasure of the President.

10 (3) An appointment as a Foreign Service officer is a
11 career appointment.

12 SEC. 302. APPOINTMENTS BY THE PRESIDENT.—(a)(1)
13 The President may, by and with the advice and consent of
14 the Senate, appoint an individual as a chief of mission, as an
15 ambassador at large, as a minister, as a career member of the
16 Senior Foreign Service, or as a Foreign Service officer.

17 (2)(A) The President may, by and with the advice and
18 consent of the Senate, confer the personal rank of career am-
19 bassador upon a career member of the Senior Foreign Serv-
20 ice in recognition of especially distinguished service over a
21 sustained period.

22 (B) The President may confer the personal rank of am-
23 bassador, to be effective for a period not exceeding six
24 months, upon an individual who is undertaking a special mis-
25 sion for the President if the President, before conferring such

1 rank, transmits to the Committee on Foreign Relations of the
2 Senate a written report of his intent to confer the personal
3 rank of ambassador upon such individual and transmits with
4 that report all relevant materials concerning any potential
5 conflict of interest which the proposed recipient of such per-
6 sonal rank may have with regard to the special mission.

7 (C) An individual upon whom a personal rank is con-
8 fered under subparagraph (A) or (B) shall not receive any
9 additional compensation solely by virtue of such personal
10 rank.

11 (b) If a member of the Service is appointed to any posi-
12 tion in the executive branch by the President, by and with
13 the advice and consent of the Senate, or by the President
14 alone, the period of service in that position by the member
15 shall be regarded as an assignment under chapter 5 and the
16 member shall not, by virtue of the acceptance of such assign-
17 ment, lose his or her status as a member of the Service. A
18 member of the Senior Foreign Service who accepts such an
19 assignment may elect to continue to receive the salary of his
20 or her salary class, to remain eligible for performance pay
21 under chapter 4, and to receive the leave to which such
22 member is entitled under subchapter I of chapter 63 of title
23 5, United States Code, as a member of the Senior Foreign
24 Service, in lieu of receiving the salary and leave (if any) of

1 the position to which the member is appointed by the
2 President.

3 SEC. 303. APPOINTMENTS BY THE SECRETARY.—The
4 Secretary may appoint the members of the Service (other
5 than the members of the Service who are in the personnel
6 categories specified in section 302(a)) in accordance with this
7 Act and such regulations as the Secretary may prescribe.

8 SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—

9 (a)(1) An individual appointed or assigned to be a chief of
10 mission should possess clearly demonstrated competence to
11 perform the duties of a chief of mission, including, to the
12 maximum extent practicable, a useful knowledge of the
13 principal language or dialect of the country in which the
14 individual is to serve, and knowledge and understanding of
15 the history, the culture, the economic and political institu-
16 tions, and the interests of that country and its people.

17 (2) Given the qualifications specified in paragraph (1),
18 positions as chief of mission should normally be accorded to
19 career members of the Service, though circumstances will
20 warrant appointments from time to time of qualified individ-
21 uals who are not career members of the Service.

22 (3) Contributions to political campaigns should not be a
23 factor in the appointment of an individual as a chief of
24 mission.

1 (b)(1) In order to assist the President in selecting quali-
2 fied candidates for appointment or assignment as chiefs of
3 mission, the Secretary of State shall from time to time fur-
4 nish the President with the names of career members of the
5 Service who are qualified to serve as chiefs of mission, to-
6 gether with pertinent information about such members.

7 (2) Each individual nominated by the President to be a
8 chief of mission, ambassador at large, or minister shall, at the
9 time of nomination, file with the Committee on Foreign Rela-
10 tions of the Senate and the Speaker of the House of Repre-
11 sentatives a report of contributions made by such individual
12 and by members of his or her immediate family during the
13 period beginning on the first day of the fourth calendar year
14 preceding the calendar year of the nomination and ending on
15 the date of the nomination. The report shall be verified by the
16 oath of the nominee, taken before any individual authorized
17 to administer oaths. The chairman of the Committee on For-
18 eign Relations of the Senate shall have each such report
19 printed in the Congressional Record. As used in this para-
20 graph, the term "contribution" has the same meaning given
21 such term by section 301(8) of the Federal Election Cam-
22 paign Act of 1971 (2 U.S.C. 431(8)), and the term "immedi-
23 ate family" means the spouse of the nominee, and any child,
24 parent, grandparent, brother, or sister of the nominee and the
25 spouses of any of them.

1 SEC. 305. APPOINTMENT TO THE SENIOR FOREIGN
2 SERVICE.—(a) Appointment to the Senior Foreign Service
3 shall be to a salary class established under section 402, and
4 not to a position.

5 (b) An individual may not be given a limited appoint-
6 ment in the Senior Foreign Service if that appointment would
7 cause the number of members of the Senior Foreign Service
8 serving under limited appointments to exceed 5 percent of
9 the total number of members of the Senior Foreign Service,
10 except that (1) members of the Senior Foreign Service as-
11 signed to the Peace Corps shall be excluded in the calcula-
12 tion and application of this limitation, and (2) members of the
13 Senior Foreign Service serving under limited appointments
14 with reemployment rights under section 310 as career ap-
15 pointees in the Senior Executive Service shall be considered
16 to be career members of the Senior Foreign Service for pur-
17 poses of this subsection.

18 SEC. 306. CAREER APPOINTMENTS.—(a) Before re-
19 ceiving a career appointment in the Service, an individual
20 shall first serve under a limited appointment as a career can-
21 didate for a trial period of service prescribed by the Secre-
22 tary. During such trial period of service, the Secretary shall
23 decide whether—

24 (1) to offer a career appointment to the candidate
25 under section 303, or

1 (2) to recommend to the President that the candi-
2 date be given a career appointment under section 302.

3 (b) Decisions by the Secretary under subsection (a) shall
4 be based upon the recommendations of boards, established by
5 the Secretary and composed entirely or primarily of career
6 members of the Service, which shall evaluate the fitness and
7 aptitude of career candidates for the work of the Service.

8 SEC. 307. ENTRY LEVELS FOR FOREIGN SERVICE OF-
9 FICER CANDIDATES.—A career candidate for appointment
10 as a Foreign Service officer may not be initially assigned
11 under section 404 to a salary class higher than class FS-5 in
12 the Foreign Service Schedule unless—

13 (1) the Secretary determines in an individual case
14 that assignment to a higher salary class is warranted
15 because of the qualifications and experience of the can-
16 didate and the needs of the Service; or

17 (2) at the time such initial assignment is made,
18 the candidate is serving under a career appointment in
19 the Service and is receiving a salary at a rate equal to
20 or higher than the minimum rate payable for class
21 FS-4 in the Foreign Service Schedule.

22 SEC. 308. RECALL AND REEMPLOYMENT OF CAREER
23 MEMBERS.—(a) Whenever the Secretary determines that the
24 needs of the Service so require, the Secretary may recall any
25 retired career member of the Service for active duty in the

1 same personnel category as that member was serving at the
2 time of retirement. A retired career member may be recalled
3 under this section to any appropriate salary class or rate,
4 except that a retired career member of the Senior Foreign
5 Service may not be recalled to a salary class higher than the
6 one in which the member was serving at the time of retire-
7 ment unless appointed to such higher class by the President,
8 by and with the advice and consent of the Senate.

9 (b) Former career members of the Service may be reap-
10 pointed under section 302(a)(1) or 303, without regard to
11 section 306, in a salary class which is appropriate in light of
12 the qualifications and experience of the individual being
13 reappointed.

14 SEC. 309. LIMITED APPOINTMENTS.—A limited ap-
15 pointment in the Service, including an appointment of an in-
16 dividual who is an employee of an agency, may not exceed 5
17 years in duration and, except as provided in section 311(a),
18 may not be extended or renewed. A limited appointment in
19 the Service which is limited by its terms to a period of one
20 year or less is a temporary appointment.

21 SEC. 310. REEMPLOYMENT RIGHTS FOLLOWING LIM-
22 ITED APPOINTMENT.—Any employee of an agency who ac-
23 cepts a limited appointment in the Service with the consent
24 of the head of the agency in which the employee is employed
25 shall be entitled, upon the termination of such limited ap-

1 pointment, to be reemployed in accordance with section 3597
2 of title 5, United States Code.

3 SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF
4 GOVERNMENT EMPLOYEES.—(a) The Secretary, when em-
5 ploying individuals abroad in positions to which career mem-
6 bers of the Service are not customarily assigned (including,
7 when continuity over a long term is not a significant consid-
8 eration, vacant positions normally filled by foreign national
9 employees), shall give equal consideration to employing
10 available qualified family members of members of the Service
11 or of other Government employees assigned abroad. Family
12 members so employed shall serve under renewable limited
13 appointments in the Service and may be paid either in ac-
14 cordance with the Foreign Service Schedule or a local com-
15 pensation plan established under section 408.

16 (b) Employment of family members in accordance with
17 this section may not be used to avoid fulfilling the need for
18 full-time career positions.

19 SEC. 312. DIPLOMATIC AND CONSULAR COMMIS-
20 SIONS.—(a) The Secretary of State may recommend to the
21 President that a member of the Service who is a citizen of
22 the United States be commissioned as a diplomatic or
23 consular officer or both. The President may, by and with the
24 advice and consent of the Senate, commission such member
25 of the Service as a diplomatic or consular officer or both. The

1 Secretary of State may commission as a vice consul a
2 member of the Service who is a citizen of the United States.
3 All official functions performed by a diplomatic or consular
4 officer, including a vice consul, shall be performed under
5 such a commission.

6 (b) Members of the Service commissioned under this sec-
7 tion may, in accordance with their commissions, perform any
8 function which any category of diplomatic officer (other than
9 a chief of mission) or consular officer is authorized by law to
10 perform.

11 (c) The Secretary of State shall define the limits of con-
12 sular districts.

13 CHAPTER 4—COMPENSATION

14 SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a)
15 Except as provided in section 302(b), each chief of mission
16 shall receive a salary, as determined by the President, at one
17 of the annual rates payable for levels II through V of the
18 Executive Schedule under sections 5313 through 5316 of
19 title 5, United States Code.

20 (b) The salary of a chief of mission shall commence upon
21 the effective date of appointment to that position. The official
22 services of a chief of mission are not terminated by the ap-
23 pointment of a successor, but shall continue for such addi-
24 tional period, not to exceed 50 days after relinquishment of
25 charge of the mission, as the Secretary of State may deter-

1 mine. During that period, the Secretary of State may require
2 the chief of mission to perform such functions as the
3 Secretary of State deems necessary in the interest of the
4 Government.

5 **SEC. 402. SALARIES OF THE SENIOR FOREIGN SERV-**
6 **ICE.—(a)** The President shall prescribe salary classes for the
7 Senior Foreign Service and shall prescribe an appropriate
8 title for each class. Basic salary rates for the Senior Foreign
9 Service may not exceed the maximum rate or be less than
10 the minimum rate of basic pay payable for the Senior Execu-
11 tive Service under section 5382 of title 5, United States
12 Code, and shall be adjusted at the same time and in the same
13 manner as rates of basic pay are adjusted for the Senior Ex-
14 ecutive Service.

15 **(b)(1)** An individual who is a career appointee in the
16 Senior Executive Service receiving basic pay at one of the
17 rates payable under section 5382 of title 5, United States
18 Code, and who accepts a limited appointment in the Senior
19 Foreign Service in a salary class for which the basic salary
20 rate is less than such basic rate of pay, shall be paid a salary
21 at his or her former basic rate of pay (with adjustments as
22 provided in paragraph (2)) until the salary for his or her
23 salary class in the Senior Foreign Service equals or exceeds
24 the salary payable to such individual under this subsection.

1 (2) The salary paid to an individual under this subsection
 2 shall be adjusted by 50 percent of each adjustment,
 3 which takes effect after the appointment of such individual to
 4 the Senior Foreign Service, in the basic rate of pay at which
 5 that individual was paid under section 5382 of title 5, United
 6 States Code, immediately prior to such appointment.

7 SEC. 403. FOREIGN SERVICE SCHEDULE.—(a) There is
 8 hereby established the Foreign Service Schedule, which shall
 9 apply to the members of the Service who are citizens of the
 10 United States and for whom salary rates are not otherwise
 11 provided for by this chapter.

12 (b) The Foreign Service Schedule shall have 10 salary
 13 classes, designated FS-1 through FS-10, which shall corre-
 14 spond to grades of the General Schedule under section 5332
 15 of title 5, United States Code, as follows:

Salary class:	Shall correspond to grade:
FS-1.....	GS-15
FS-2.....	GS-14
FS-3.....	GS-13
FS-4.....	GS-12
FS-5.....	GS-11
FS-6.....	GS-9
FS-7.....	GS-8
FS-8.....	GS-7
FS-9.....	GS-6
FS-10.....	GS-5

16 (c) Each class in the Foreign Service Schedule shall
 17 have 14 salary steps. The first 10 salary steps in each class
 18 shall be equal to the steps for the corresponding grade in the
 19 General Schedule and the remaining 4 steps shall be in incre-

1 ments equal to the average increment of the first 10 steps in
2 that class.

3 (d) Salary may not be paid under the Foreign Service
4 Schedule at a rate in excess of the rate of basic pay for level
5 V of the Executive Schedule under section 5316 of title 5,
6 United States Code.

7 (e) The Secretary of State shall prescribe regulations to
8 carry out this section.

9 SEC. 404. ASSIGNMENT TO A SALARY CLASS.—(a)
10 The Secretary shall assign all Foreign Service officers and
11 Foreign Service personnel (other than Foreign Service per-
12 sonnel who are paid in accordance with section 407 or who
13 are family members of Government employees paid in ac-
14 cordance with a local compensation plan established under
15 section 408) to appropriate salary classes in the Foreign
16 Service Schedule.

17 (b)(1) The salary class to which a member of the Service
18 is assigned under this section shall not be affected by the
19 assignment of the member to a position classified under
20 chapter 5.

21 (2) Except as authorized by subchapter I of chapter 35
22 of title 5, United States Code, changes in the salary class of
23 a member of the Senior Foreign Service or a member of the
24 Service assigned to a salary class in the Foreign Service
25 Schedule shall be made only in accordance with chapter 6.

1 The Secretary shall prescribe regulations (which shall be
2 consistent with the relevant provisions of subchapter VI of
3 chapter 53 of title 5, United States Code, and with the regu-
4 lations prescribed to carry out such provisions) providing for
5 retention of pay by members of the Service in cases in which
6 reduction-in-force procedures are applied.

7 SEC. 405. PERFORMANCE PAY.—(a) Members of the
8 Senior Foreign Service who are serving—

9 (1) under career or career candidate appointments,
10 or

11 (2) under limited appointments with reemployment
12 rights under section 310 as career appointees in the
13 Senior Executive Service,

14 shall be eligible to compete for performance pay in accord-
15 ance with this section. Performance pay shall be paid in a
16 lump sum and shall be in addition to the basic salary pre-
17 scribed under section 402 and any other award. The fact that
18 a member of the Senior Foreign Service competing for per-
19 formance pay would, as a result of the payment of such per-
20 formance pay, receive compensation exceeding the compen-
21 sation of any other member of the Service shall not preclude
22 the award or its payment.

23 (b) Awards of performance pay shall take into account
24 the criteria established by the Office of Personnel Manage-
25 ment for performance awards under section 5384 of title 5,

1 United States Code, and rank awards under section 4507 of
2 title 5, United States Code. Awards of performance pay
3 under this section shall be subject to the following
4 limitations:

5 (1) Not more than 50 percent of the members of
6 the Senior Foreign Service may receive performance
7 pay in any fiscal year.

8 (2) Except as provided in paragraph (3), perform-
9 ance pay for a member of the Senior Foreign Service
10 may not exceed 20 percent of the annual rate of basic
11 salary for that member.

12 (3) Not more than 6 percent of the members of
13 the Senior Foreign Service may receive performance
14 pay in any fiscal year in an amount which exceeds the
15 percentage limitation specified in paragraph (2). Pay-
16 ments under this paragraph to a member of the Senior
17 Foreign Service may not exceed \$10,000 in any fiscal
18 year, except that payments of up to \$20,000 in any
19 fiscal year may be made under this paragraph to up to
20 1 percent of the members of the Senior Foreign
21 Service.

22 (4) The total amount of basic salary plus perform-
23 ance pay received in any fiscal year by any member of
24 the Senior Foreign Service may not exceed the salary
25 payable for level I of the Executive Schedule under

1 section 5312 of title 5, United States Code, as in effect
2 at the end of that fiscal year.

3 (c) The Secretary shall determine the amount of per-
4 formance pay available under subsection (b)(2) each year for
5 distribution among the members of the Senior Foreign Serv-
6 ice and shall distribute performance pay to particular individ-
7 uals on the basis of recommendations by selection boards es-
8 tablished under section 602.

9 (d) The President may grant awards of performance pay
10 under subsection (b)(3) on the basis of annual recommenda-
11 tions by the Secretary of State of members of the Senior
12 Foreign Service who are nominated by their agencies as
13 having performed especially meritorious or distinguished
14 service. Recommendations by the Secretary of State under
15 this subsection shall be made on the basis of recommenda-
16 tions by special interagency selection boards established by
17 the Secretary of State for the purpose of reviewing and eval-
18 uating the nominations of agencies.

19 SEC. 406. WITHIN-CLASS SALARY INCREASES.—(a)
20 Any member of the Service receiving a salary under the For-
21 eign Service Schedule shall be advanced to the next higher
22 salary step in the member's class at the beginning of the first
23 applicable pay period following the completion by that
24 member of a period of—

1 (1) 52 calendar weeks of service in each of salary
2 steps 1 through 9, and

3 (2) 104 calendar weeks of service in each of
4 salary steps 10 through 13,

5 unless the performance of the member during that period is
6 found in a review by a selection board established under sec-
7 tion 602 to fall below the standards of performance for his or
8 her salary class.

9 (b) The Secretary may grant, on the basis of especially
10 meritorious service, to any member of the Service receiving
11 an increase in salary under subsection (a), an additional
12 salary increase to any higher step in the salary class in which
13 the member is serving.

14 SEC. 407. SALARIES FOR FOREIGN SERVICE PERSON-
15 NEL ABROAD WHO PERFORM ROUTINE DUTIES.—(a) The
16 Secretary may establish salary rates at rates lower than
17 those established for the Foreign Service Schedule by section
18 403 for the Foreign Service personnel described in subsection
19 (b). The rates established under this subsection may be no
20 less than the then applicable minimum wage rate specified in
21 section 6(a)(1) of the Fair Labor Standards Act of 1938 (29
22 U.S.C. 206(a)(1)).

23 (b) The Secretary may pay Foreign Service personnel
24 who are recruited abroad, who are not available or are not
25 qualified for assignment to another Foreign Service post, and

1 who perform duties of a more routine nature than are gener-
2 ally performed by Foreign Service personnel assigned to
3 class FS-10 in the Foreign Service Schedule, in accordance
4 with the salary rates established under subsection (a).

5 SEC. 408. LOCAL COMPENSATION PLANS.—(a)(1) The
6 Secretary shall establish compensation (including position
7 classification) plans for foreign national employees of the
8 Service, and for United States citizens employed in the Serv-
9 ice abroad who are family members of Government employ-
10 ees. To the extent consistent with the public interest, each
11 compensation plan shall be based upon prevailing wage rates
12 and compensation practices (including participation in local
13 social security plans) for corresponding types of positions in
14 the locality of employment, except that such compensation
15 plans shall provide for payment of wages to those family
16 members of Government employees who are paid in accord-
17 ance with such plans at a rate which is no less than the then
18 applicable minimum wage rate specified in section 6(a)(1) of
19 the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).
20 Any compensation plan established under this section may
21 include provision for leaves of absence with pay for foreign
22 national employees in accordance with prevailing law and
23 employment practices in the locality of employment without
24 regard to any limitation contained in section 6310 of title 5,
25 United States Code.

1 (2) The Secretary may make supplemental payments to
2 any civil service annuitant who is a former foreign national
3 employee of the Service (or who is receiving an annuity as a
4 survivor of a former foreign national employee of the Service)
5 in order to offset exchange rate losses, if the annuity being
6 paid such annuitant is based on—

7 (A) a salary that was fixed in a foreign currency
8 that has appreciated in value in terms of the United
9 States dollar; and

10 (B) service in a country in which (as determined
11 by the Secretary) the average retirement benefits being
12 received by individuals who retired from competitive
13 local organizations are superior to the local currency
14 value of civil service annuities plus any other retire-
15 ment benefits payable to foreign national employees
16 who retired during similar time periods and after com-
17 parable careers with the Government.

18 (b) For the purpose of performing functions abroad, any
19 agency or other Government establishment (including any es-
20 tablishment in the legislative or judicial branch) may adminis-
21 ter employment programs for its employees who are foreign
22 nationals or are family members of Government employees
23 assigned abroad, in accordance with the applicable provisions
24 of this Act.

1 (c) The Secretary of State may prescribe regulations
2 governing the establishment and administration of local com-
3 pensation plans under this section by all agencies and other
4 Government establishments.

5 SEC. 409. SALARIES OF CONSULAR AGENTS.—The
6 Secretary of State shall establish the salary rate for each
7 consular agent. Such salary rate shall be established after
8 taking into account the workload of the consular agency and
9 the prevailing wage rates in the locality where the agency is
10 located, except that, in the case of a consular agent who is a
11 citizen of the United States, the salary rate may not be less
12 than the then applicable minimum wage rate specified in sec-
13 tion 6(a)(1) of the Fair Labor Standards Act of 1938 (29
14 U.S.C. 206(a)(1)).

15 SEC. 410. COMPENSATION FOR IMPRISONED FOREIGN
16 NATIONAL EMPLOYEES.—(a) The head of any agency or
17 other Government establishment (including any in the legisla-
18 tive or judicial branch) may compensate any current or
19 former foreign national employee, or any foreign national
20 who is or was employed under a personal services contract,
21 who is or has been imprisoned by a foreign government if the
22 Secretary of State (or, in the case of a foreign national em-
23 ployed by the Central Intelligence Agency, the Director of
24 Central Intelligence) determines that such imprisonment is
25 the result of the employment of the foreign national by the

1 United States. Such compensation may not exceed the
2 amount that the agency head determines approximates the
3 salary and other benefits to which the foreign national would
4 have been entitled had he or she been employed during the
5 period of such imprisonment. Such compensation may be paid
6 under such terms and conditions as the Secretary of State
7 deems appropriate. For purposes of this section, an agency
8 head shall have the same powers with respect to imprisoned
9 foreign nationals who are or were employed by the agency as
10 an agency head has under subchapter VII of chapter 55 of
11 title 5, United States Code, to the extent that such powers
12 are consistent with this section.

13 (b) Any period of imprisonment of a current or former
14 foreign national employee which is compensable under this
15 section shall be considered for purposes of any other em-
16 ployee benefit to be a period of employment by the Govern-
17 ment, except that a period of imprisonment shall not be
18 creditable—

19 (1) for purposes of subchapter III of chapter 83 of
20 title 5, United States Code, unless it is expressly cred-
21 itable under that subchapter; or

22 (2) for purposes of subchapter I of chapter 81 of
23 title 5, United States Code, unless the individual was
24 employed by the Government at the time of his or her
25 imprisonment.

1 (c) No compensation or other benefit shall be awarded
2 under this section unless a claim therefor is filed within 3
3 years after—

4 (1) the termination of the period of imprisonment
5 giving rise to the claim, or

6 (2) the date of the claimant's first opportunity
7 thereafter to file such a claim, as determined by the
8 appropriate agency head.

9 (d) The Secretary of State may prescribe regulations
10 governing payments under this section by all agencies and
11 other Government establishments.

12 **SEC. 411. TEMPORARY SERVICE AS PRINCIPAL OFFI-**
13 **CER.**—For such time (in excess of such minimum period as
14 the Secretary of State may establish) as any member of the
15 Service is temporarily in charge of a Foreign Service post
16 during the absence or incapacity of the principal officer, that
17 member shall receive, in addition to the basic salary paid to
18 the member and notwithstanding sections 5535 and 5536 of
19 title 5, United States Code, an amount equal to that portion
20 (which the Secretary of State may determine to be appropri-
21 ate) of the difference between such salary and the basic
22 salary provided for the principal officer, or, if there is no
23 principal officer, for the former principal officer.

24 **SEC. 412. SPECIAL DIFFERENTIALS AND PREMIUM**
25 **PAY.**—(a) The Secretary may pay special differentials, in ad-

1 dition to compensation otherwise authorized, to Foreign
2 Service officers who are required because of the nature of
3 their assignments to perform additional work on a regular
4 basis in substantial excess of normal requirements. A special
5 differential may not be paid under this subsection with re-
6 spect to work which is the basis for premium pay under sub-
7 section (b).

8 (b) Members of the Service (other than members of the
9 Senior Foreign Service) shall be entitled to receive premium
10 pay to the extent provided under subchapter V of chapter 55
11 of title 5, United States Code.

12 SEC. 413. DEATH GRATUITY.—(a) The Secretary may
13 provide for payment of a gratuity to the surviving dependents
14 of any Foreign Service employee, who dies as a result of
15 injuries sustained in the performance of duty abroad, in an
16 amount equal to one year's salary at the time of death. Any
17 death gratuity payment made under this section shall be held
18 to have been a gift and shall be in addition to any other
19 benefit payable from any source.

20 (b) A death gratuity payment shall be made under this
21 section only if the survivor entitled to payment under subsec-
22 tion (c) is entitled to elect monthly compensation under sec-
23 tion 8133 of title 5, United States Code, because the death
24 resulted from an injury (excluding a disease proximately
25 caused by the employment) sustained in the performance of

1 duty, without regard to whether such survivor elects to
2 waive compensation under such section 8133.

3 (c) A death gratuity payment under this section shall be
4 made as follows:

5 (1) First, to the widow or widower.

6 (2) Second, to the child, or children in equal
7 shares, if there is no widow or widower.

8 (3) Third, to the dependent parent, or dependent
9 parents in equal shares, if there is no widow, widower,
10 or child.

11 If there is no survivor entitled to payment under this subsec-
12 tion, no payment shall be made.

13 (d) As used in this section—

14 (1) the term "Foreign Service employee" means
15 any member of the Service or United States repre-
16 sentative to an international organization or commis-
17 sion; and

18 (2) each of the terms "widow", "widower",
19 "child", and "parent" shall have the same meaning
20 given each such term by section 8101 of title 5, United
21 States Code.

22 CHAPTER 5—CLASSIFICATION OF POSITIONS AND
23 ASSIGNMENTS

24 SEC. 501. CLASSIFICATION OF POSITIONS.—The Sec-
25 retary shall designate and classify positions in the

1 Department and at Foreign Service posts which are to be
2 occupied by members of the Service (other than by chiefs of
3 mission and ambassadors at large). Positions designated
4 under this section are excepted from the competitive service.
5 Position classifications under this section shall be established,
6 without regard to chapter 51 of title 5, United States Code,
7 in relation to the salaries established under chapter 4. In
8 classifying positions at Foreign Service posts abroad, the
9 Secretary shall give appropriate weight to job factors relating
10 to service abroad and to the compensation practices applica-
11 ble to United States citizens employed abroad by United
12 States corporations.

13 SEC. 502. ASSIGNMENTS TO FOREIGN SERVICE POSI-
14 TIONS.—(a)(1) The Secretary (with the concurrence of the
15 agency concerned) may assign a member of the Service to
16 any position classified under section 501 in which that
17 member is eligible to serve (other than as chief of mission or
18 ambassador at large), and may assign a member from one
19 such position to another such position as the needs of the
20 Service may require.

21 (2) In making assignments under paragraph (1), the
22 Secretary shall assure that a member of the Service is not
23 assigned to a position at a post in a particular geographic
24 area exclusively on the basis of the race, ethnicity, or religion
25 of that member.

1 (b) Positions designated as Foreign Service positions
2 normally shall be filled by the assignment of members of the
3 Service to those positions. Subject to that limitation—

4 (1) Foreign Service positions may be filled by the
5 assignment for specified tours of duty of employees of
6 the Department and, under interagency agreements,
7 employees of other agencies; and

8 (2) Senior Foreign Service positions may also be
9 filled by other members of the Service.

10 (c) The President may assign a career member of the
11 Service to serve as charge d'affaires or otherwise as the head
12 of a mission (or as the head of a United States office abroad
13 which is designated under section 102(a)(3) by the Secretary
14 of State as diplomatic in nature) for such period as the public
15 interest may require.

16 SEC. 503. ASSIGNMENTS TO AGENCIES, INTERNA-
17 TIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The
18 Secretary may (with the concurrence of the agency, organi-
19 zation, or other body concerned) assign a member of the
20 Service for duty—

21 (1) in a non-Foreign Service (including Senior Ex-
22 ecutive Service) position in the Department or another
23 agency, or with an international organization, interna-
24 tional commission, or other international body;

1 (2) with a domestic or international trade, labor,
2 agricultural, scientific, or other conference, congress,
3 or gathering;

4 (3) for special instruction, training, or orientation
5 at or with a public or private organization; and

6 (4) in the United States (or in any territory or
7 possession of the United States or in the Common-
8 wealth of Puerto Rico), with a State or local gov-
9 ernment, a public or private nonprofit organization
10 (including an educational institution), or a Member or
11 office of the Congress.

12 (b)(1) The salary of a member of the Service assigned
13 under this section shall be the higher of the salary which that
14 member would receive but for the assignment under this sec-
15 tion or the salary of the position to which that member is
16 assigned.

17 (2) The salary of a member of the Service assigned
18 under this section shall be paid from appropriations made
19 available for the payment of salaries and expenses of the
20 Service. Such appropriations may be reimbursed for all or
21 any part of the costs of salaries and other benefits for mem-
22 bers assigned under this section.

23 (3) A member of the Service assigned under subsection
24 (a)(4) to a Member or office of the Congress shall be deemed
25 to be an employee of the House of Representatives or the

1 Senate, as the case may be, for purposes of payment of travel
2 and other expenses.

3 (c) Assignments under this section may not exceed four
4 years of continuous service for any member of the Service
5 unless the Secretary approves an extension of such period for
6 that member because of special circumstances.

7 SEC. 504. SERVICE IN THE UNITED STATES AND
8 ABROAD.—(a) Career members of the Service shall be obli-
9 gated to serve abroad and shall be expected to serve abroad
10 for substantial portions of their careers. The Secretary shall
11 establish by regulation limitations upon assignments of mem-
12 bers of the Service within the United States. A member of
13 the Service may not be assigned to duty within the United
14 States for any period of continuous service exceeding eight
15 years unless the Secretary approves an extension of such
16 period for that member because of special circumstances.

17 (b) Consistent with the needs of the Service, the Secre-
18 tary shall seek to assign each career member of the Service
19 who is a citizen of the United States to duty within the
20 United States at least once during each period of fifteen
21 years that the member is in the Service.

22 (c) The Secretary may grant a sabbatical to a career
23 member of the Senior Foreign Service for not to exceed
24 eleven months in order to permit the member to engage in
25 study or uncompensated work experience which will contrib-

1 ute to the development and effectiveness of the member. A
2 sabbatical may be granted under this subsection under condi-
3 tions specified by the Secretary in light of the provisions of
4 section 3396(c) of title 5, United States Code, which apply to
5 sabbaticals granted to members of the Senior Executive
6 Service.

7 SEC. 505. TEMPORARY DETAILS.—A period of duty of
8 not more than six months in duration by a member of the
9 Service shall be considered a temporary detail and shall not
10 be considered an assignment within the meaning of this
11 chapter.

12 CHAPTER 6—PROMOTION AND RETENTION

13 SEC. 601. PROMOTIONS.—(a) Career members of the
14 Senior Foreign Service are promoted by appointment under
15 section 302(a) to a higher salary class in the Senior Foreign
16 Service. Members of the Senior Foreign Service serving
17 under career candidate appointments or noncareer appoint-
18 ments are promoted by appointment under section 303 to a
19 higher salary class in the Senior Foreign Service. Foreign
20 Service officers, and Foreign Service personnel who are
21 assigned to a class in the Foreign Service Schedule, are pro-
22 moted by appointment under section 302(a) as career mem-
23 bers of the Senior Foreign Service or by assignment under
24 section 404 to a higher salary class in the Foreign Service
25 Schedule.

1 (b) Except as provided in section 606(a), promotions
2 of—

3 (1) members of the Senior Foreign Service, and
4 (2) members of the Service assigned to a salary
5 class in the Foreign Service Schedule (including pro-
6 motions of such members into the Senior Foreign
7 Service),

8 shall be based upon the recommendations and rankings of
9 selection boards established under section 602, except that
10 the Secretary may by regulation specify categories of career
11 members, and categories of career candidates, assigned to
12 salary classes in the Foreign Service Schedule who may
13 receive promotions on the basis of satisfactory performance.

14 (c)(1) Promotions into the Senior Foreign Service shall
15 be recommended by selection boards only from among career
16 members of the Service assigned to class FS-1 in the For-
17 eign Service Schedule who request that they be considered
18 for promotion into the Senior Foreign Service. The Secretary
19 shall prescribe the length of the period after such a request is
20 made (within any applicable time in class limitation estab-
21 lished under section 607(a)) during which such members may
22 be considered by selection boards for entry into the Senior
23 Foreign Service. A request by a member for consideration for
24 promotion into the Senior Foreign Service under this subsec-
25 tion may be withdrawn by the member, but if it is withdrawn,

1 that member may not thereafter request consideration for
2 promotion into the Senior Foreign Service.

3 (2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

7 (A) a regular, predictable flow of recruitment in
8 the Service;

9 (B) effective career development patterns to meet
10 the needs of the Service; and

11 (C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

13 (3) The affidavit requirements of sections 3332 and
14 3333(a) of title 5, United States Code, shall not apply with
15 respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

19 SEC. 602. SELECTION BOARDS.—(a) The Secretary
20 shall establish selection boards to evaluate the performance
21 of members of the Senior Foreign Service and members of
22 the Service assigned to a salary class in the Foreign Service
23 Schedule. Selection boards shall, in accordance with precepts
24 prescribed by the Secretary, rank the members of a salary

1 class on the basis of relative performance and may make rec-
2 ommendations for—

3 (1) promotions in accordance with section 601;
4 (2) awards of performance pay under section
5 405(c);

6 (3) denials of within class step increases under
7 section 406(a);

8 (4) offer or renewal of limited career extensions
9 under section 607(b); and

10 (5) such other actions as the Secretary may pre-
11 scribe by regulation.

12 (b) All selection boards established under this section
13 shall include public members. The Secretary shall assure that
14 a substantial number of women and members of minority
15 groups are appointed to each selection board established
16 under this section.

17 SEC. 603. BASIS FOR SELECTION BOARD REVIEW.—

18 (a) Recommendations and rankings by selection boards shall
19 be based upon records of the character, ability, conduct, qual-
20 ity of work, industry, experience, dependability, usefulness,
21 and general performance of members of the Service. Such
22 records may include reports prepared by or on behalf of the
23 Inspector General of the Department of State and the For-
24 eign Service, performance evaluation reports of supervisors,
25 records of commendations, awards, reprimands, and other

1 disciplinary actions, and (with respect to members of the
2 Senior Foreign Service) records of current and prospective
3 assignments.

4 (b) Precepts for selection boards shall include a descrip-
5 tion of the needs of the Service for performance require-
6 ments, skills, and qualities, which are to be considered in
7 recommendations for promotion. The precepts for selection
8 boards responsible for recommending promotions into and
9 within the Senior Foreign Service shall emphasize perform-
10 ance which demonstrates the strong policy formulation capa-
11 bilities, executive leadership qualities, and highly developed
12 functional and area expertise, which are required for the
13 Senior Foreign Service.

14 SEC. 604. CONFIDENTIALITY OF RECORDS.—The rec-
15 ords described in section 603(a) shall be maintained in
16 accordance with regulations prescribed by the Secretary.
17 Except to the extent that they pertain to the receipt, dis-
18 bursement, and accounting for public funds, such records
19 shall be confidential and subject to inspection only by the
20 President, the Secretary, such employees of the Government
21 as may be authorized by law or assigned by the Secretary to
22 work on such records, the legislative and appropriations com-
23 mittees of the Congress charged with considering legislation
24 and appropriations for the Service, and representatives duly
25 authorized by such committees. Access to such records relat-

1 ing to a member of the Service shall be granted to such
2 member, upon written request.

3 SEC. 605. IMPLEMENTATION OF SELECTION BOARD

4 RECOMMENDATIONS.—(a) Recommendations for promotion
5 made by selection boards shall be submitted to the Secretary
6 in rank order by salary class or in rank order by specialization
7 within a salary class. The Secretary shall make promotions
8 and, with respect to career appointments into or within
9 the Senior Foreign Service, shall make recommendations to
10 the President for promotions, in accordance with the rankings
11 of the selection boards.

12 (b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove
13 the name of an individual from the rank order list submitted
14 by a selection board or delay the promotion of an individual
15 named in such a list.

17 SEC. 606. OTHER BASES FOR INCREASING PAY.—(a)
18 The Secretary may pursuant to a recommendation of the
19 Foreign Service Grievance Board, an equal employment
20 opportunity appeals examiner, or the Special Counsel of the
21 Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

23 (1) recommend to the President a promotion of a
24 member of the Service under section 302(a);

1 (2) promote a member of the Service under sec-
2 tion 303;

3 (3) grant performance pay to a member of the
4 Senior Foreign Service under section 405(c); or

5 (4) grant a within-class salary increase under sec-
6 tion 406 to a member of the Service who is assigned
7 to a salary class in the Foreign Service Schedule.

8 (b) In implementing subsection (a) of this section and in
9 cases in which the Secretary has exercised the authority of
10 section 605(b), the Secretary may, in special circumstances
11 set forth by regulation, make retroactive promotions, grant
12 performance pay, make retroactive within-class salary
13 increases, and recommend retroactive promotions by the
14 President.

15 SEC. 607. RETIREMENT FOR EXPIRATION OF TIME IN
16 CLASS.—(a)(1) The Secretary shall, by regulation, establish
17 maximum time in class limitations for—

18 (A) career members of the Senior Foreign
19 Service,

20 (B) Foreign Service officers, and

21 (C) other career members of the Service who are
22 in such occupational categories as may be designated
23 by the Secretary and who are assigned to salary
24 classes in the Foreign Service Schedule to which For-
25 eign Service officers may also be assigned.

1 (2) Maximum time in class limitations under this subsec-
2 tion (which may not be less than 3 years for career members
3 of the Senior Foreign Service) may apply with respect to the
4 time a member may remain in a single salary class or in a
5 combination of salary classes.

6 (3) The Secretary may, by regulation, increase or
7 decrease any maximum time in class established under this
8 subsection as the needs of the Service may require. If maxi-
9 mum time in class is decreased, the Secretary shall provide
10 any member of the Service who is in a category and salary
11 class subject to the new time in class limitation an opportuni-
12 ty to remain in class (notwithstanding the new limitation) for
13 a period which is at least as long as the shorter of—

14 (A) the period which the member would have
15 been permitted to remain in class but for the decrease
16 in maximum time in class, or

17 (B) such minimum period as the Secretary deter-
18 mines is necessary to provide members of the Service
19 who are in the same category and salary class as that
20 member a reasonable opportunity to be promoted into
21 the next higher class or combination of classes, as the
22 case may be.

23 (b) Members of the Service whose maximum time in
24 class under subsection (a) expires—

1 (1) after they have attained the highest salary
2 class for their respective occupational categories, or
3 (2) in the case of members of the Senior Foreign
4 Service, while they are in salary classes designated by
5 the Secretary,
6 may continue to serve only under limited extensions of their
7 career appointments. Such limited extensions may not exceed
8 5 years in duration and may be granted and renewed by the
9 Secretary in accordance with the recommendations of selec-
10 tion boards established under section 602. Members of the
11 Service serving under such limited career extensions shall
12 continue to be career members of the Service.

13 (c) Any member of the Service—

14 (1) whose maximum time in class under subsec-
15 tion (a) expires and who is not promoted to a higher
16 class or combination of classes, as the case may be, or
17 (2) whose limited career extension under subsec-
18 tion (b) expires and is not renewed,

19 shall be retired from the Service and receive benefits in
20 accordance with section 609, subject to any career extension
21 under subsection (d) of this section.

22 (d) Notwithstanding any other provision of this sec-
23 tion—

24 (1) the career appointment of a member of the
25 Service whose maximum time in class under subsection

1 (a) expires; or whose limited career extension under
2 subsection (b) expires, while that member is occupying
3 a position to which he or she was appointed by the
4 President, by and with the advice and consent of the
5 Senate, shall be extended until the appointment to that
6 position is terminated; and

7 (2) if the Secretary determines it to be in the
8 public interest, the Secretary may extend temporarily
9 the career appointment of a career member of the
10 Service whose maximum time in class or limited career
11 extension expires, but in no case may any extension
12 under this paragraph exceed one year and such exten-
13 sions may be granted only in special circumstances.

14 SEC. 608. RETIREMENT BASED ON RELATIVE PER-
15 FORMANCE.—(a) The Secretary shall prescribe regulations
16 concerning the standards of performance to be met by career
17 members of the Service who are citizens of the United
18 States. Whenever a selection board review indicates that the
19 performance of such a career member of the Service may not
20 meet the standards of performance for his or her class, the
21 Secretary shall provide for administrative review of the per-
22 formance of the member. The review shall include an oppor-
23 tunity for the member to be heard.

24 (b) In any case where the administrative review con-
25 ducted under subsection (a) substantiates that a career

1 member of the Service has failed to meet the standards of
2 performance for his or her class, the member shall be retired
3 from the Service and receive benefits in accordance with sec-
4 tion 609.

5 SEC. 609. RETIREMENT BENEFITS.—(a) A member of
6 the Service—

7 (1) who is retired under section 607(c)(2); or
8 (2) who is retired under section 607(c)(1) or
9 608(b)—

10 (A) after becoming eligible for voluntary re-
11 tirement under section 811, or

12 (B) from the Senior Foreign Service or while
13 assigned to class FS-1 in the Foreign Service
14 Schedule,

15 shall receive retirement benefits in accordance with section
16 806.

17 (b) Any member of the Service (other than a member to
18 whom subsection (a) applies) who is retired under section
19 607(c)(1) or 608(b) shall receive—

20 (1) one-twelfth of a year's salary at his or her
21 then current salary rate for each year of service and
22 proportionately for a fraction of a year, but not exceed-
23 ing a total of one year's salary at his or her then cur-
24 rent salary rate, payable without interest from the For-
25 eign Service Retirement and Disability Fund in 3 equal

1 installments, such installments to be paid on January 1
2 of each of the first 3 calendar years beginning after the
3 retirement of the member (except that in special cases,
4 the Secretary of State may accelerate or combine such
5 installments); and

6 (2) a refund as provided in section 815 of the con-
7 tributions made by the member to the Foreign Service
8 Retirement and Disability Fund, except that in lieu of
9 such refund a member who has at least 5 years of
10 service credit toward retirement under the Foreign
11 Service Retirement and Disability System (excluding
12 military and naval service) may elect to receive an an-
13 nuity, computed under section 806, commencing at age
14 60.

15 In the event that a member of the Service has elected to
16 receive retirement benefits under paragraph (2) and dies
17 before reaching age 60, his or her death shall be considered a
18 death in service within the meaning of section 809.

19 SEC. 610. SEPARATION FOR CAUSE.—(a)(1) The Sec-
20 retary may separate any member from the Service for such
21 cause as will promote the efficiency of the Service.

22 (2) A member of the Service who is a member of the
23 Senior Foreign Service or is assigned to a salary class in the
24 Foreign Service Schedule and who either (A) is serving under
25 a career appointment, or (B) if separation is to be by reason

1 of misconduct, is serving under a limited appointment, shall
2 not be separated from the Service under this section until the
3 member has been granted a hearing before the Foreign Serv-
4 ice Grievance Board and the cause for separation established
5 at such hearing, unless the member waives in writing the
6 right to a hearing. The hearing provided under this para-
7 graph shall be in accordance with the hearing procedures ap-
8 plicable to grievances under section 1106 and shall be in lieu
9 of any other administrative procedure authorized or required
10 by this or any other law.

11 (b) Any participant in the Foreign Service Retirement
12 and Disability System who is separated under subsection (a)
13 shall be entitled to receive a refund as provided in section
14 815 of the contributions made by the participant to the For-
15 eign Service Retirement and Disability Fund. Except in
16 cases where the Secretary determines that separation was
17 based in whole or in part on the ground of disloyalty to the
18 United States, a participant who has at least 5 years of serv-
19 ice credit toward retirement under the Foreign Service Re-
20 tirement and Disability System (excluding military and naval
21 service) may elect, in lieu of such refund, to an annuity, com-
22 puted under section 806, commencing at age 60.

23 SEC. 611. TERMINATION OF LIMITED APPOINT-
24 MENTS.—Except as provided in section 610(a)(2), the Secre-
25 tary may terminate at any time the appointment of any

1 member of the Service serving under a limited appointment
2 who is in the Senior Foreign Service, who is assigned to a
3 salary class in the Foreign Service Schedule, or who is a
4 family member of a Government employee serving under a
5 local compensation plan established under section 408.

6 SEC. 612. TERMINATION OF APPOINTMENTS OF CON-

7 SULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—

8 (a) The Secretary of State may terminate at any time the
9 appointment of any consular agent in light of the criteria and
10 procedures normally followed in the locality in similar
11 circumstances.

12 (b) The Secretary may terminate at any time the ap-
13 pointment of any foreign national employee in light of the
14 criteria and procedures normally followed in the locality in
15 similar circumstances.

16 CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER

17 DEVELOPMENT, TRAINING, AND ORIENTATION

18 SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The
19 Secretary of State shall maintain and operate the Foreign
20 Service Institute (hereinafter in this chapter referred to as
21 the "Institute"), originally established under section 701 of
22 the Foreign Service Act of 1946, in order to promote career
23 development within the Service and to provide necessary
24 training and instruction in the field of foreign relations to
25 members of the Service and to employees of the Department

1 and of other agencies. The Institute shall be headed by a
2 Director, who shall be appointed by the Secretary of State.

3 (b) To the extent practicable, the Secretary of State
4 shall provide training under this chapter which meets the
5 needs of all agencies, and other agencies shall avoid duplicat-
6 ing the facilities and training provided by the Secretary of
7 State through the Institute and otherwise.

8 SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—(a)
9 The Secretary shall establish foreign language proficiency re-
10 quirements for members of the Service who are to be as-
11 signed abroad in order that Foreign Service posts abroad will
12 be staffed by individuals having a useful knowledge of the
13 language or dialect common to the country in which the post
14 is located.

15 (b) The Secretary of State shall arrange for appropriate
16 language training of members of the Service by the Institute
17 or otherwise in order to assist in meeting the requirements
18 established under subsection (a).

19 SEC. 703. TRAINING AUTHORITIES.—(a) In the exer-
20 cise of functions under this chapter, the Secretary of State
21 may—

22 (1) provide for the general nature of the training
23 and instruction to be furnished by the Institute, includ-
24 ing functional and geographic area specializations;

1 (2) correlate training and instruction furnished by
2 the Institute with courses given at other Government
3 institutions and at private institutions which furnish
4 training and instruction useful in the field of foreign
5 affairs;

6 (3) encourage and foster programs complementary
7 to those furnished by the Institute, including through
8 grants and other gratuitous assistance to nonprofit in-
9 stitutions cooperating in any of the programs under
10 this chapter;

11 (4)(A) employ in accordance with the civil service
12 laws such personnel as may be necessary to carry out
13 the provisions of this chapter, and

14 (B) if and to the extent determined to be neces-
15 sary by the Secretary of State, obtain without regard
16 to the provisions of law governing appointments in the
17 competitive service, by appointment or contract (sub-
18 ject to the availability of appropriations), the services
19 of individuals to serve as language instructors, lin-
20 guists, and other academic and training specialists (in-
21 cluding, in the absence of suitably qualified United
22 States citizens, qualified individuals who are not citi-
23 zents of the United States); and

24 (5) acquire such real and personal property and
25 equipment as may be necessary for the establishment,

1 maintenance, and operation of the facilities necessary
2 to carry out the provisions of this chapter without
3 regard to section 3709 of the Revised Statutes of the
4 United States (41 U.S.C. 5) and section 302 of the
5 Federal Property and Administrative Services Act of
6 1949 (41 U.S.C. 252).

7 (b) In furtherance of the objectives of this Act, the Sec-
8 retary may—

9 (1) pay the tuition and other expenses of members
10 of the Service and employees of the Department who
11 are assigned or detailed in accordance with law for
12 special instruction or training, including orientation,
13 language, and career development training;

14 (2) pay the salary (excluding premium pay or any
15 special differential under section 411) of members of
16 the Service selected and assigned for training; and

17 (3) provide special monetary or other incentives to
18 encourage members of the Service to acquire or retain
19 proficiency in foreign languages or special abilities
20 needed in the Service.

21 (c) In the implementation of this chapter, the Secretary
22 shall seek to design training programs which will encourage
23 and foster career development for the various categories of
24 members of the Service.

1 (d) The Secretary may provide to family members of
2 members of the Service or of employees of the Department or
3 other agencies, in anticipation of their assignment abroad or
4 while abroad—

5 (1) appropriate orientation and language training;
6 and

7 (2) functional training for anticipated prospective
8 employment under section 311.

9 SEC. 704. TRAINING GRANTS.—(a) To facilitate train-
10 ing provided to members of families of Government employ-
11 ees under this chapter, the Secretary may make grants (by
12 advance payment or by reimbursement) to family members
13 attending approved programs of study. No such grant may
14 exceed the amount actually expended for necessary costs in-
15 curred in conjunction with such attendance.

16 (b) If a member of the Service who is assigned abroad,
17 or a member of his or her family, is unable to participate in
18 language training furnished by the Government through the
19 Institute or otherwise, the Secretary may compensate that
20 individual for all or part of the costs of language training,
21 related to the assignment abroad, which is undertaken at a
22 public or private institution.

23 SEC. 705. CAREER COUNSELING.—(a) In order to fa-
24 cilitate their transition from the Service, the Secretary may
25 provide (by contract or otherwise, subject to the availability

1 of appropriations) professional career counseling, advice, and
2 placement assistance to members of the Service, and to
3 former members of the Service who were assigned to receive
4 counseling and assistance under this subsection before they
5 were separated from the Service, other than those separated
6 for cause.

7 (b)(1) The Secretary may facilitate the employment of
8 spouses of members of the Service by—

9 (A) providing regular career counseling for such
10 spouses;

11 (B) maintaining a centralized system for catalog-
12 ing their skills and the various governmental and non-
13 governmental employment opportunities available to
14 them; and

15 (C) otherwise assisting them in obtaining employ-
16 ment.

17 (2) The Secretary shall establish a family liaison office
18 to carry out this subsection and such other functions as the
19 Secretary may determine.

20 CHAPTER 8—FOREIGN SERVICE RETIREMENT AND
21 DISABILITY SYSTEM

22 SEC. 801. ADMINISTRATION OF THE SYSTEM.—In ac-
23 cordance with such regulations as the President may pre-
24 scribe, the Secretary of State shall administer the Foreign
25 Service Retirement and Disability System (hereinafter in this

1 chapter referred to as the "System"), originally established
2 pursuant to section 18 of the Act of May 24, 1924 (43 Stat.
3 144).

4 SEC. 802. MAINTENANCE OF THE FUND.—The Secre-
5 tary of the Treasury shall maintain the special fund known as
6 the Foreign Service Retirement and Disability Fund (herein-
7 after in this chapter referred to as the "Fund"), originally
8 created by section 18 of the Act of May 24, 1924 (43 Stat.
9 144).

10 SEC. 803. PARTICIPANTS.—(a) The following members
11 of the Service (hereinafter in this chapter referred to as "par-
12 ticipants") shall be entitled to the benefits of the System:

13 (1) Every member serving under a career appoint-
14 ment or as a career candidate under section 306—

15 (A) in the Senior Foreign Service, or

16 (B) who is assigned to a salary class in the
17 Foreign Service Schedule.

18 (2) Every chief of mission, who is not a partici-
19 pant under paragraph (1), who—

20 (A) has served as chief of mission for an ag-
21 gregate period of 20 years or more, and

22 (B) has paid into the Fund a special contri-
23 bution for each year of such service in accordance
24 with section 805.

1 (b) Any otherwise eligible member of the Service who is
2 appointed to a position in the executive branch by the Presi-
3 dent, by and with the advice and consent of the Senate, or by
4 the President alone, shall not by virtue of the acceptance of
5 such appointment cease to be eligible to participate in the
6 System.

7 SEC. 804. DEFINITIONS.—As used in this chapter,
8 unless otherwise specified, the term—

9 (1) "annuitant" means any individual, including a
10 former participant or survivor, who meets all require-
11 ments for an annuity from the Fund under this or any
12 other Act and who has filed a claim for such annuity;

13 (2) "child" means an individual—

14 (A) who—

15 (i) is an offspring or adopted child of the
16 participant,

17 (ii) is a stepchild or recognized natural
18 child of the participant and who received
19 more than one-half support from the partici-
20 pant, or

21 (iii) lived with the participant, for whom
22 a petition of adoption was filed by the par-
23 ticipant, and who is adopted by the surviving
24 spouse of the participant after the death of
25 the participant;

1 (B) who is unmarried; and

2 (C) who—

3 (i) is under the age of 18 years,

4 (ii) is a student under the age of 22
5 years (for purposes of this clause, an individual
6 whose 22d birthday occurs before July 1
7 or after August 31 of the calendar year in
8 which that birthday occurs, and while the individual
9 is a student, is deemed to become
10 22 years of age on the first July 1 which
11 occurs after that birthday), or

12 (iii) is incapable of self-support because
13 of a physical or mental disability which was
14 incurred before the individual reached the
15 age of 18 years;

16 (3) "court" means any court of any State or of
17 the District of Columbia;

18 (4) "court order" means any court decree of di-
19 vorce or annulment, or any court order or court-
20 approved property settlement agreement incident to
21 any court decree of divorce or annulment;

22 (5) "Foreign Service normal cost" means the
23 level percentage of payroll required to be deposited in
24 the Fund to meet the cost of benefits payable under
25 the System (computed in accordance with generally ac-

1 cepted actuarial practice on an entry-age basis) less the
2 value of retirement benefits earned under another re-
3 tirement system for Government employees and less
4 the cost of credit allowed for military and naval
5 service;

6 (6) "former spouse" means a former wife or hus-
7 band of a participant or former participant who was
8 married to such participant during periods of service by
9 that participant which are creditable under section
10 816;

11 (7) "Fund balance" means the sum of—
12 (A) the investments of the Fund calculated at
13 par value, plus

14 (B) the cash balance of the Fund on the
15 books of the Treasury;

16 (8) "lump-sum credit" means the compulsory and
17 special contributions to the credit of a participant or
18 former participant in the Fund plus interest on such
19 contributions at 4 percent a year compounded annually
20 to December 31, 1976, and after such date, for a par-
21 ticipant who separates from the Service after comple-
22 ting at least 1 year of civilian service and before com-
23 pleting 5 years of such service, at the rate of 3 percent
24 per year to the date of separation (except that interest
25 shall not be paid for a fractional part of a month in the

1 total service or on compulsory and special contributions
2 from an annuitant for recall service or other service
3 performed after the date of separation which forms the
4 basis for annuity);

5 (9) "military and naval service" means honorable
6 active service—

7 (A) in the Armed Forces of the United
8 States,

9 (B) in the Regular or Reserve Corps of the
10 Public Health Service after June 30, 1960, or

11 (C) as a commissioned officer of the National
12 Oceanic and Atmospheric Administration, or a
13 predecessor organization, after June 30, 1961,

14 but does not include service in the National Guard
15 except when ordered to active duty in the service of
16 the United States;

17 (10) "student" means a child regularly pursuing a
18 full-time course of study or training in residence in a
19 high school, trade school, technical or vocational institu-
20 tute, junior college, college, university, or comparable
21 recognized educational institution (for purposes of this
22 paragraph, a child who is a student shall not be
23 deemed to have ceased to be a student during any
24 period between school years, semesters, or terms if the
25 period of nonattendance does not exceed 5 calendar

1 months and if the child shows to the satisfaction of the
2 Secretary of State that he or she has a bona fide inten-
3 tion of continuing to pursue his or her course of study
4 during the school year, semester, or term immediately
5 following such period);

6 (11) "surviving spouse" means the surviving wife
7 or husband of a participant or annuitant who, in the
8 case of a death in Service or marriage after retirement,
9 was married to the participant or annuitant for at least
10 one year immediately preceding his or her death or is a
11 parent of a child born of the marriage; and

12 (12) "unfunded liability" means the estimated
13 excess of the present value of all benefits payable from
14 the Fund over the sum of—

15 (A) the present value of deductions to be
16 withheld from the future basic salary of partici-
17 pants and of future agency contributions to be
18 made on their behalf, plus

19 (B) the present value of Government pay-
20 ments to the Fund under section 821, plus

21 (C) the Fund balance as of the date the un-
22 funded liability is determined.

23 SEC. 805. CONTRIBUTIONS TO THE FUND.—(a) 7 per-
24 cent of the basic salary received by each participant shall be
25 deducted from the salary and contributed to the Fund for the

1 payment of annuities, cash benefits, refunds, and allowances.
2 An equal amount shall be contributed by the Department
3 from the appropriations or fund used for payment of the
4 salary of the participant. The Department shall deposit in the
5 Fund the amounts deducted and withheld from basic salary
6 and the amounts contributed by the Department.

7 (b) Each participant shall be deemed to consent and
8 agree to such deductions from basic salary. Payment less
9 such deductions shall be a full and complete discharge and
10 acquittance of all claims and demands whatsoever for all reg-
11 ular services during the period covered by such payment,
12 except the right to the benefits to which the participant shall
13 be entitled under this Act, notwithstanding any law, rule, or
14 regulation affecting the salary of the individual.

15 (c)(1) If a member of the Service who is under another
16 retirement system for Government employees becomes a par-
17 ticipant in the System by direct transfer, the total contribu-
18 tions and deposits of that member that would otherwise be
19 refundable on separation (except voluntary contributions), in-
20 cluding interest thereon, shall be transferred to the Fund ef-
21 fective as of the date such member becomes a participant in
22 the System. Each such member shall be deemed to consent
23 to the transfer of such funds, and such transfer shall be a
24 complete discharge and acquittance of all claims and de-
25 mands against the other Government retirement fund on ac-

1 count of service rendered by such member prior to becoming
 2 a participant in the System.

3 (2) A member of the Service whose contributions are
 4 transferred to the Fund pursuant to paragraph (1) shall not
 5 be required to make additional contributions for periods of
 6 service for which required contributions were made to the
 7 other Government retirement fund; nor shall any refund be
 8 made to any such member on account of contributions made
 9 during any period to the other Government retirement fund
 10 at a higher rate than that fixed by subsection (d).

11 (d)(1) Any participant credited with civilian service after
 12 July 1, 1924—

13 (A) for which no retirement contributions, deduc-
 14 tions, or deposits have been made, or

15 (B) for which a refund of such contributions, de-
 16 ductions, or deposits has been made which has not
 17 been redeposited,

18 may make a special contribution to the Fund equal to the
 19 following percentages of basic salary received for such
 20 service:

Time of service:	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive.....	5
October 16, 1960, through December 31, 1969, inclusive	6½
On and after January 1, 1970.....	7

21 (2) Notwithstanding paragraph (1), a special contribu-
 22 tion for prior nondeposit service as a National Guard techni-
 23 cian which would be creditable toward retirement under sub-

1 chapter III of chapter 83 of title 5, United States Code, and
2 for which a special contribution has not been made, shall be
3 equal to the special contribution for such service computed in
4 accordance with the schedule in paragraph (1) multiplied by
5 the percentage of such service that is creditable under section
6 816.

7 (3) Special contributions under this subsection shall in-
8 clude interest computed from the midpoint of each service
9 period included in the computation, or from the date refund
10 was paid, to the date of payment of the special contribution
11 or commencing date of annuity, whichever is earlier. Interest
12 shall be compounded at the annual rate of 4 percent to De-
13 cember 31, 1976, and 3 percent thereafter. No interest shall
14 be charged on special contributions for any period of separa-
15 tion from Government service which began before October 1,
16 1956. Special contributions may be paid in installments (in-
17 cluding by allotment of pay) when authorized by the Secre-
18 tary of State.

19 (e) Contributions shall not be required for any period of
20 military and naval service or for any period for which credit
21 is allowed to individuals of Japanese ancestry under section
22 816 for periods of internment during World War II.

23 (f) A participant or survivor may make a special contri-
24 bution at any time before receipt of annuity and may author-
25 ize payment by offset against initial annuity accruals.

1 SEC. 806. COMPUTATION OF ANNUITIES.—(a) The an-
2 nuity of a participant shall be equal to 2 percent of his or her
3 average basic salary for the highest 3 consecutive years of
4 service multiplied by the number of years, not exceeding 35,
5 of service credit obtained in accordance with sections 816
6 and 817, except that the highest 3 years of service shall be
7 used in computing the annuity of any participant who serves
8 an assignment under section 302(b) in a position to which the
9 participant was appointed by the President and whose con-
10 tinuity of service in that position is interrupted prior to retire-
11 ment by appointment or assignment to any other position de-
12 termined by the Secretary of State to be of comparable im-
13 portance. In determining the aggregate period of service
14 upon which the annuity is to be based, the fractional part of a
15 month, if any, shall not be counted. The annuity shall be
16 reduced by 10 percent of any special contribution described
17 in section 805(d) which is due for service for which no contri-
18 butions were made and which remains unpaid unless the par-
19 ticipant elects to eliminate the service involved for purposes
20 of annuity computation.

21 (b)(1)(A) Any married participant who retires shall re-
22 ceive a reduced annuity and provide a maximum survivor
23 annuity for his or her spouse unless the participant elects in
24 writing at the time of retirement to waive or reduce the
25 maximum survivor annuity for his or her spouse. Any elec-

1 tion by any participant under the preceding sentence shall
2 not be considered valid unless the participant establishes to
3 the satisfaction of the Secretary of State (i) that the spouse
4 has been notified of the loss of or reduction in survivor bene-
5 fits or (ii) that the participant has complied with such notifi-
6 cation requirements as the Secretary of State shall, by regu-
7 lation, prescribe.

8 (B) If a participant or former participant has a former
9 spouse for whose benefit a survivor annuity is required to be
10 provided by the terms of any court order under section
11 820(b)(2), the participant shall receive a reduced annuity and
12 provide a survivor annuity for that former spouse under sec-
13 tion 814(a).

14 (2) The annuity of a participant or former participant,
15 excluding any portion of the annuity not designated or com-
16 mitted as a base for any survivor annuity, shall be reduced by
17 2½ percent of the first \$3,600 plus 10 percent of any
18 amount over \$3,600.

19 (3)(A) If a former participant entitled to receive a re-
20 duced annuity under this subsection dies and is survived by a
21 spouse, a survivor annuity shall be paid to the surviving
22 spouse equal to 55 percent of the full amount of the partici-
23 pant's annuity computed under subsection (a), or 55 percent
24 of any lesser amount elected as the base for the survivor
25 benefit under paragraph (1)(A).

1 (B) Notwithstanding subparagraph (A), the amount of
2 the annuity calculated under subparagraph (A) for a surviving
3 spouse in any case in which there is also a surviving former
4 spouse of the participant who qualifies for an annuity under
5 section 814(a) may not exceed 55 percent of the portion (if
6 any) of the base for survivor benefits which remains available
7 under section 814(a)(4)(B).

8 (4) An annuity payable from the Fund to a surviving
9 spouse shall commence on the day after the annuitant dies
10 and shall terminate on the last day of the month before (A)
11 the death of the surviving spouse, or (B) if the surviving
12 spouse remarries prior to attaining the age of 60 years, such
13 remarriage. If a survivor annuity is terminated because of
14 remarriage, it shall be restored at the same rate commencing
15 on the date such remarriage is terminated if any lump sum
16 paid upon termination of the annuity is returned to the Fund.

17 (c)(1) If an annuitant who was a participant dies and is
18 survived by a spouse and by a child or children, in addition to
19 the annuity payable to the surviving spouse, there shall be
20 paid to or on behalf of each child an annuity equal to the
21 smaller of—

22 (A) \$900, or

23 (B) \$2,700 divided by the number of children.

1 (2) If an annuitant who was a participant dies and is not
2 survived by a spouse but by a child or children, each surviv-
3 ing child shall be paid an annuity equal to the smaller of—
4 (A) \$1,080, or
5 (B) \$3,240 divided by the number of children.

6 (3) The amounts specified in this subsection are subject
7 to—

8 (A) cost-of-living adjustments as specified under
9 section 826(c)(3), and
10 (B) the minimum specified in subsection (l)(2) of
11 this section.

12 (d) If a surviving spouse dies or the annuity of a child is
13 terminated, the annuities of any remaining children shall be
14 recomputed and paid as though such spouse or child had not
15 survived the participant. If the annuity to a surviving child
16 who has not been receiving an annuity is initiated or re-
17 sumed, the annuities of any other children shall be recomput-
18 ed and paid from that date as though the annuities to all
19 currently eligible children in the family were then being
20 initiated.

21 (e) The annuity payable to a child under subsection (c)
22 or (d) shall begin on the day after the participant dies, or if
23 the child is not then qualified, on the first day of the month in
24 which the child becomes eligible. The annuity of a child shall

1 terminate on the last day of the month which precedes the
2 month in which eligibility ceases.

3 (f) At the time of retirement an unmarried participant
4 who does not have a former spouse for whose benefit a reduc-
5 tion is made under subsection (b) may elect to receive a re-
6 duced annuity and to provide for an annuity equal to 55 per-
7 cent of the reduced annuity payable after his or her death to
8 a beneficiary whose name is designated in writing to the Sec-
9 retary of State. The annuity payable to a participant making
10 such election shall be reduced by 10 percent of an annuity
11 computed under subsection (a) and by 5 percent of an annuity
12 so computed for each full 5 years the designated beneficiary
13 is younger than the retiring participant, but such total reduc-
14 tion shall not exceed 40 percent. No such election of a re-
15 duced annuity payable to a beneficiary shall be valid until the
16 participant has satisfactorily passed a physical examination
17 as prescribed by the Secretary of State. The annuity payable
18 to a beneficiary under this subsection shall begin on the day
19 after the annuitant dies and shall terminate on the last day of
20 the month preceding the death of the beneficiary. An annuity
21 which is reduced under this subsection (or any similar prior
22 provision of law) shall, effective the first day of the month
23 following the death of the beneficiary named under this sub-
24 section, be recomputed and paid as if the annuity had not
25 been so reduced.

1 (g) A participant or former participant who was unmar-
2 ried at retirement and who later marries may, within one
3 year after such marriage, irrevocably elect in writing to re-
4 ceive a reduced annuity and to provide a survivor annuity for
5 the spouse (if such spouse qualifies as a surviving spouse
6 under section 804(11)). Receipt by the Secretary of State of
7 notice of an election under this subsection voids prospectively
8 any election previously made under subsection (f). The reduc-
9 tion in annuity required by an election under this subsection
10 shall be computed and the amount of the survivor annuity
11 shall be determined in accordance with subsections (b) (2) and
12 (3). The annuity reduction or recomputation shall be effective
13 the first day of the month beginning one year after the date
14 of marriage.

15 (h) A surviving spouse of any participant or former par-
16 ticipant shall not become entitled to a survivor annuity or to
17 the restoration of a survivor annuity payable from the Fund
18 unless the survivor elects to receive it instead of any other
19 survivor annuity to which he or she may be entitled under
20 this or any other retirement system for Government employ-
21 ees on the basis of a marriage to someone other than that
22 participant.

23 (i) Any married annuitant who reverts to retired status
24 with entitlement to a supplemental annuity under section 823
25 shall, unless the annuitant elects in writing to the contrary at

1 that time, have the supplemental annuity reduced by 10 per-
2 cent to provide a supplemental survivor annuity for his or her
3 spouse. Such supplemental survivor annuity shall be equal to
4 55 percent of the supplemental annuity of the annuitant and
5 shall be payable to a surviving spouse to whom the annuitant
6 was married at the time of reversion to retired status or to
7 whom the annuitant had been married for at least one year at
8 the time of death or who is a parent of a child born of the
9 marriage.

10 (j) An annuity which is reduced under this section or
11 any similar prior provision of law to provide a survivor bene-
12 fit for a spouse shall, if the marriage of the participant to
13 such spouse is dissolved, be recomputed and paid for each full
14 month during which an annuitant is not married (or is remar-
15 ried if there is no election in effect under the following sen-
16 tence) as if the annuity had not been so reduced, subject to
17 any reduction required to provide a survivor benefit under
18 section 814(a). Upon remarriage the retired participant may
19 irrevocably elect, by means of a signed writing received by
20 the Secretary within one year after such remarriage, to re-
21 ceive during such marriage a reduction in annuity for the
22 purpose of allowing an annuity for the new spouse of the
23 annuitant in the event such spouse survives the annuitant.
24 Such reduction shall be equal to the reduction in effect imme-
25 diately before the dissolution of the previous marriage (unless

1 such reduction is adjusted under section 814(a)(5)), and shall
2 be effective the first day of the first month beginning one
3 year after the date of remarriage. A survivor annuity elected
4 under this subsection shall be treated in all respects as a
5 survivor annuity under subsection (b).

6 (k) The Secretary of State shall, on an annual basis—

7 (1) inform each participant of his or her right of
8 election under subsections (g) and (j); and

9 (2) to the maximum extent practicable, inform
10 spouses or former spouses of participants or former
11 participants of their rights under this section and sec-
12 tion 814.

13 (l)(1) The monthly rate of an annuity payable under this
14 chapter to an annuitant, other than a child, shall not be less
15 than the smallest primary insurance amount, including any
16 cost-of-living increase added to that amount, authorized to be
17 paid from time to time under title II of the Social Security
18 Act (42 U.S.C. 401 et seq.).

19 (2) The monthly rate of an annuity payable under this
20 chapter to a surviving child shall not be less than the small-
21 est primary insurance amount, including any cost-of-living in-
22 crease added to that amount, authorized to be paid from time
23 to time under title II of the Social Security Act (42 U.S.C.
24 401 et seq.) or three times such primary insurance amount

1 divided by the number of surviving children entitled to an
2 annuity, whichever is the lesser.

3 (3) This subsection does not apply to an annuitant or to
4 a survivor who is or becomes entitled to receive from the
5 United States an annuity or retired pay under any other civil-
6 ian or military retirement system, benefits under title II of
7 the Social Security Act (42 U.S.C. 401 et seq.), a pension,
8 veterans' compensation, or any other periodic payment of a
9 similar nature, when the monthly rate thereof is equal to or
10 greater than the smallest primary insurance amount, includ-
11 ing any cost-of-living increase added to that amount, author-
12 ized to be paid from time to time under title II of the Social
13 Security Act (42 U.S.C. 401 et seq.).

14 SEC. 807. PAYMENT OF ANNUITY.—(a) Except as oth-
15 erwise provided, the annuity of a former participant who has
16 met the eligibility requirements for an annuity shall com-
17 mence on the day after separation from the Service or on the
18 day after pay ceases. The annuity of a former participant
19 who is entitled to a deferred annuity under this Act shall
20 become effective on the day he or she attains age 60.

21 (b) The annuity to a survivor shall become effective as
22 otherwise specified but shall not be paid until the survivor
23 submits an application for such annuity, supported by such
24 proof of eligibility as the Secretary of State may require. If
25 such application or proof of eligibility is not submitted during

1 the lifetime of an otherwise eligible individual, no annuity
2 shall be due or payable to his or her estate.

3 (c) An individual entitled to annuity from the Fund may
4 decline to accept all or any part of the annuity by submitting
5 a signed waiver to the Secretary of State. The waiver may
6 be revoked in writing at any time. Payment of the annuity
7 waived may not be made for the period during which the
8 waiver was in effect.

9 (d) Recovery of overpayments under this chapter may
10 not be made from an individual when, in the judgment of the
11 Secretary of State, the individual is without fault and recov-
12 ery would be against equity and good conscience or adminis-
13 tratively infeasible.

14 SEC. 808. RETIREMENT FOR DISABILITY OR INCA-
15 PACITY.—(a) Any participant who has at least 5 years of
16 service credit toward retirement under the System (excluding
17 military and naval service) and who becomes totally disabled
18 or incapacitated for useful and efficient service by reason of
19 disease, illness, or injury (not due to vicious habits, intemper-
20 ance, or willful conduct of the participant) shall, upon his or
21 her own application or upon order of the Secretary, be retired
22 on an annuity computed as prescribed in section 806. If the
23 disabled or incapacitated participant has less than 20 years of
24 service credit toward retirement under the System at the
25 time of retirement, his or her annuity shall be computed on

1 the assumption that the participant has had 20 years of serv-
2 ice, except that the additional service credit that may accrue
3 to a participant under this sentence shall in no case exceed
4 the difference between his or her age at the time of retire-
5 ment and age 60.

6 (b) Before being retired under this section, the partici-
7 pant shall be given a physical examination by one or more
8 duly qualified physicians or surgeons designated by the Sec-
9 retary of State to conduct examinations. Disability or inca-
10 pacity shall be determined by the Secretary of State on the
11 basis of the advice of such physicians or surgeons. Unless the
12 disability or incapacity is permanent, like examinations shall
13 be made annually until the annuitant has attained age 60. If
14 the Secretary of State determines on the basis of the advice
15 of one or more duly qualified physicians or surgeons conduct-
16 ing such examinations that an annuitant has recovered to the
17 extent that he or she can return to duty, the annuitant may
18 apply for reinstatement or reappointment in the Service
19 within 1 year from the date recovery is determined. Upon
20 application, the Secretary shall reinstate such recovered an-
21 nuitant in the class in which the annuitant was serving at
22 time of retirement, or the Secretary may, taking into consid-
23 eration the age, qualifications, and experience of such annu-
24 itant, and the present class of his or her contemporaries in
25 the Service, appoint or recommend that the President ap-

1 point the annuitant to a higher class. Payment of the annuity
2 shall continue until a date 6 months after the date of the
3 examination showing recovery or until the date of reinstate-
4 ment or reappointment in the Service, whichever is earlier.
5 Fees for examinations under this section, together with rea-
6 sonable traveling and other expenses incurred in order to
7 submit to examination, shall be paid out of the Fund. If the
8 annuitant fails to submit to examination as required under
9 this subsection, payment of the annuity shall be suspended
10 until continuance of the disability or incapacity is satisfac-
11 torily established.

12 (c) If a recovered annuitant whose annuity is discontin-
13 ued is for any reason not reinstated or reappointed in the
14 Service, he or she shall be considered to have been separated
15 within the meaning of section 810 as of the date of retire-
16 ment for disability or incapacity and shall, after the discon-
17 tinuance of the annuity, be entitled to the benefits of that
18 section or of section 815, except that he or she may elect
19 voluntary retirement if eligible under section 811.

20 (d) No participant shall be entitled to receive an annuity
21 under this Act and compensation for injury or disability to
22 himself or herself under subchapter I of chapter 81 of title 5,
23 United States Code, covering the same period of time, except
24 that a participant may simultaneously receive both an annu-
25 ity under this section and scheduled disability payments

1 under section 8107 of title 5, United States Code. This sub-
2 section shall not bar the right of any claimant to the greater
3 benefit conferred by either this Act or such subchapter for
4 any part of the same period of time. Neither this subsection
5 nor any provision of such subchapter shall be construed to
6 deny the right of any participant to receive an annuity under
7 this Act and to receive concurrently any payment under such
8 subchapter by reason of the death of any other individual.

9 (e) Notwithstanding any other law, the right of any indi-
10 vidual entitled to an annuity under this Act shall not be af-
11 fected because such person has received an award of compen-
12 sation in a lump sum under section 8135 of title 5, United
13 States Code, except that where such annuity is payable on
14 account of the same disability for which compensation under
15 such section has been paid, so much of such compensation as
16 has been paid for any period extended beyond the date such
17 annuity becomes effective, as determined by the Secretary of
18 Labor, shall be refunded to the Department of Labor, to be
19 paid into the Federal Employees' Compensation Fund.
20 Before such individual receives such annuity, he or she
21 shall—

22 (1) refund to the Department of Labor the amount
23 representing such commuted payments for such ex-
24 tended period, or

1 (2) authorize the deduction of such amount from
2 the annuity payable under this Act, which amount
3 shall be transmitted to the Department of Labor for re-
4 imbursement to such Fund.

5 Deductions from such annuity may be made from accrued
6 and accruing payments, or may be prorated against and paid
7 from accruing payments in such manner as the Secretary of
8 Labor shall determine, whenever the Secretary of Labor finds
9 that the financial circumstances of the annuitant warrant de-
10 ferred refunding.

11 (f) A claim may be allowed under this section only if the
12 application is filed with the Secretary of State before the par-
13 ticipant is separated from the Service or within one year
14 thereafter. This time limitation may be waived by the Secre-
15 tary of State for a participant who at the date of separation
16 from the Service or within one year thereafter is mentally
17 incompetent, if the application is filed with the Secretary of
18 State within one year from the date of restoration of the par-
19 ticipant to competency or the appointment of a fiduciary,
20 whichever is earlier.

21 SEC. 809. DEATH IN SERVICE.—(a) If a participant
22 dies and no claim for annuity is payable under this Act, the
23 lump-sum credit shall be paid in accordance with section 815.

24 (b) If a participant who has at least 18 months of civil-
25 ian service credit toward retirement under the System dies

1 before retirement or other separation from the Service and is
2 survived by a spouse or former spouse qualifying for an annu-
3 ity under section 814(a), such surviving spouse shall be enti-
4 tled to an annuity equal to 55 percent of the annuity comput-
5 ed in accordance with subsections (e) and (g) of this section
6 and section 806(a) and any surviving former spouse shall be
7 entitled to an annuity under section 814(a) as if the partici-
8 pant died after being entitled to an annuity under this chap-
9 ter. If the participant had less than 3 years creditable civilian
10 service at the time of death, the survivor annuity shall be
11 computed on the basis of the average salary for the entire
12 period of such service.

13 (c) If a participant who has at least 18 months of civil-
14 ian service credit toward retirement under the System dies
15 before retirement or other separation from the Service and is
16 survived by a spouse and a child or children, each surviving
17 child shall be entitled to an annuity computed in accordance
18 with subsections (c)(1) and (d) of section 806.

19 (d) If a participant who has at least 18 months of civil-
20 ian service credit toward retirement under the System dies
21 before retirement or other separation from the Service and is
22 not survived by a spouse, but by a child or children, each
23 surviving child shall be entitled to an annuity computed in
24 accordance with subsections (c)(2) and (d) of section 806.

1 (e) If, at the time of his or her death, the participant had
2 less than 20 years of service credit toward retirement under
3 the System, the annuity payable in accordance with subsec-
4 tion (b) shall be computed in accordance with section 806 on
5 the assumption he or she has had 20 years of service, except
6 that the additional service credit that may accrue to a de-
7 ceased participant under this subsection shall in no case
8 exceed the difference between his or her age on the date of
9 death and age 60. In all cases arising under this subsection
10 or subsection (b), (c), (d), or (g), it shall be assumed that the
11 deceased participant was qualified for retirement on the date
12 of death.

13 (f) If an annuitant who elected a reduced annuity dies in
14 service after being recalled under section 308 and is survived
15 by a spouse or former spouse entitled to a survivor annuity
16 based on such an election, such survivor annuity shall be
17 computed as if the recall service had otherwise terminated on
18 the day of death and the annuity of the deceased had been
19 resumed in accordance with section 823. If such death occurs
20 after the annuitant had completed sufficient recall service to
21 attain eligibility for a supplemental annuity, a surviving
22 spouse shall be entitled to elect, in addition to any other
23 benefits and in lieu of a refund of retirement contributions
24 made during the recall service, a supplemental survivor an-
25 nuity computed and paid under section 806(i) as if the recall

1 service had otherwise terminated. If the annuitant had com-
2 pleted sufficient recall service to attain eligibility to have his
3 or her annuity determined anew, a surviving spouse may
4 elect, in lieu of any other survivor benefit under this chapter,
5 to have the rights of the annuitant redetermined and to re-
6 ceive a survivor annuity computed under subsection (b) on
7 the basis of the total service of the annuitant. Any surviving
8 former spouse who was married to the participant during the
9 period of recall service shall be entitled to have the same
10 election rights with respect to an annuity under section
11 814(a) that a surviving spouse has under this subsection if
12 and to the extent expressly provided in a court order under
13 section 820(b)(2).

14 (g) Notwithstanding subsection (b), if the participant or
15 former participant had a former spouse qualifying for an an-
16 nuity under section 814(a), the annuity of the spouse under
17 this section shall be subject to the limitation of section
18 806(b)(3)(B).

19 (h) Annuities that become payable under this section
20 shall commence, terminate, and be resumed in accordance
21 with subsection (b)(4), (e), or (h) of section 806, as
22 appropriate.

23 SEC. 810. DISCONTINUED SERVICE RETIREMENT.—

24 Any participant who voluntarily separates from the Service
25 after obtaining at least 5 years of service credit toward re-

1 tirement under the System (excluding military and naval
2 service) may upon separation from the Service or at any time
3 prior to becoming eligible for an annuity elect to have his or
4 her contributions to the Fund returned in accordance with
5 section 815, or to leave his or her contributions in the Fund
6 and receive an annuity, computed under section 806, com-
7 mencing at age 60.

8 **SEC. 811. VOLUNTARY RETIREMENT.**—Any partici-
9 pant who is at least 50 years of age and has 20 years of
10 creditable service, including at least 5 years of service credit
11 toward retirement under the System (excluding military and
12 naval service), may on his or her own application and with
13 the consent of the Secretary be retired from the Service and
14 receive retirement benefits in accordance with section 806.

15 **SEC. 812. MANDATORY RETIREMENT.**—(a) Except as
16 provided in subsection (b), any participant shall be retired
17 from the Service at the end of the month in which the partici-
18 pant reaches age 65 if the participant has at least 5 years of
19 service credit toward retirement under the System (excluding
20 military and naval service) and shall receive retirement bene-
21 fits in accordance with section 806.

22 (b) Any participant who reaches age 65 while occupying
23 a position to which he or she was appointed by the President,
24 by and with the advice and consent of the Senate, may con-
25 tinue to serve until that appointment is terminated. In addi-

1 tion, whenever the Secretary determines it to be in the public
2 interest, any participant who has reached age 65 may be
3 retained on active service for a period not to exceed 5 years.
4 Any participant who completes a period of service after
5 reaching age 65 as authorized by this subsection shall be
6 retired at the end of the month in which such authorized
7 service is completed.

8 SEC. 813. RETIREMENT OF FORMER PRESIDENTIAL
9 APPOINTEES.—If a participant completes an assignment
10 under section 302(b) in a position to which he or she was
11 appointed by the President and has not been reassigned
12 within 3 months after the termination of such assignment
13 (plus any period of authorized leave), the participant shall be
14 retired from the Service and receive retirement benefits in
15 accordance with section 806.

16 SEC. 814. FORMER SPOUSES.—(a)(1) If a court order
17 under section 820(b)(2) expressly so provides, in the case of
18 any participant who is entitled to receive an annuity and who
19 is survived by a former spouse, the former spouse shall be
20 entitled to a survivor annuity in an amount which shall be
21 determined by or in accordance with the provisions of that
22 court order if the court order is consistent with the provisions
23 of this chapter.

24 (2) A former spouse shall not be qualified for an annuity
25 under this subsection if before the commencement of that an-

1 nuity the former spouse remarries before becoming 60 years
2 of age.

3 (3) An annuity payable from the Fund to a surviving
4 former spouse under this subsection shall commence on the
5 day the annuitant dies and shall terminate on the last day of
6 the month before the former spouse's death or remarriage
7 before attaining age 60. If such a survivor annuity is termi-
8 nated because of remarriage, it shall be restored at the same
9 rate commencing on the date such remarriage is terminated if
10 any lump sum paid upon termination of the annuity is re-
11 turned to the Fund.

12 (4)(A) The maximum survivor annuity or annuities for
13 any spouse or former spouse, or combination of such survivor
14 annuities, under this subsection (and section 806) with re-
15 spect to any participant or former participant may not exceed
16 55 percent of the full amount of the participant's annuity, as
17 calculated under section 806.

18 (B) Once a survivor annuity has been provided for under
19 this subsection (or section 806) for any spouse or former
20 spouse of a participant or former participant, a survivor an-
21 nuity may thereafter be provided for a spouse or former
22 spouse of that participant under this subsection (or section
23 806) only for that portion (if any) of the maximum available
24 which is not committed for survivor benefits for any spouse

1 or former spouse whose prospective right to such annuity has
2 not terminated.

3 (C) After the death of a participant or former participant,
4 a court order under section 820(b)(2) may not adjust
5 the amount of the annuity of any former spouse under this
6 subsection.

7 (5)(A) For each full month after a former spouse of a
8 participant dies or remarries before attaining age 60, the an-
9 nuity of the participant, if reduced to provide a survivor an-
10 nuity for that former spouse, shall be recomputed and paid as
11 if the annuity had not been so reduced unless an election is in
12 effect under subparagraph (B).

13 (B) Subject to paragraph (4)(B), the participant may
14 elect in writing within one year after the death or remarriage
15 of the former spouse to continue the reduction in order to
16 provide a higher survivor annuity under section 806(b)(3) for
17 any spouse of the participant.

18 (b)(1) In the case of any participant or former participant
19 providing a survivor annuity benefit under subsection (a)
20 for a former spouse pursuant to a court order under section
21 820(b)(2), such participant may elect an additional survivor
22 annuity under this subsection for any other former spouse or
23 spouse surviving the participant, if the participant satisfac-
24 torily passes a physical examination as prescribed by the Sec-
25 retary of State.

1 (2) Neither the total amount of survivor annuity or an-
2 nuieties elected under this subsection with respect to any par-
3 ticipant or former participant, nor the survivor annuity or
4 annuities for any one surviving spouse or former spouse of
5 such participant under this section and section 806(b)(3),
6 shall exceed 55 percent of the full amount of the participant's
7 annuity, as computed under section 806(a).

8 (3)(A) In accordance with regulations which the Secre-
9 tary of State shall prescribe, the participant involved shall
10 provide for any annuity under this subsection—

11 (i) by a reduction in the annuity or salary of the
12 participant,

13 (ii) by a lump sum payment or installment pay-
14 ments to the Fund, or

15 (iii) by any combination of such reduction and
16 payments.

17 (B) The present value of the total amount to accrue to
18 the Fund under subparagraph (A) to provide any annuity
19 under this subsection shall be actuarially equivalent in value
20 to such annuity, as calculated upon such tables of mortality
21 as may from time to time be prescribed for this purpose by
22 the Secretary of State.

23 (C) If a former spouse predeceases the participant or
24 remarries before attaining age 60 (or, in the case of a spouse,

1 the spouse does not qualify as a former spouse upon dissolu-
2 tion of the marriage)—

3 (i) if an annuity or salary reduction under subparagraph
4 (A) is in effect for that spouse or former
5 spouse, the annuity or salary shall be recomputed and
6 paid as if it had not been reduced, and

7 (ii) any amount accruing to the Fund under subparagraph
8 (A) shall be refunded, but only to the extent
9 that such amount may have exceeded the actuarial cost
10 of providing benefits under this subsection for the
11 period such benefits were provided, as determined
12 under regulations prescribed by the Secretary of State.

13 (4) An annuity payable under this subsection to a spouse
14 or former spouse shall commence on the day after the partici-
15 pant dies and shall terminate on the last day of the month
16 before the former spouse's death or remarriage before attain-
17 ing age 60.

18 (5) Section 826 shall not apply to any annuity under this
19 subsection, unless authorized under regulations prescribed by
20 the Secretary of State, and any annuity under this subsection
21 shall not be considered as a survivor annuity for purposes of
22 the provisions of section 806(h) requiring an election of cer-
23 tain survivor benefits.

24 (c) Section 806(l) shall not apply to any annuity payable
25 under subsection (a) or (b).

1 SEC. 815. LUMP-SUM PAYMENTS.—(a) Whenever a
2 participant becomes separated from the Service without be-
3 coming eligible for an annuity or a deferred annuity under
4 this chapter, a lump-sum credit shall be paid to the partici-
5 pant.

6 (b) Whenever an annuitant becomes separated from the
7 Service following a period of recall service without becoming
8 eligible for a supplemental or recomputed annuity under sec-
9 tion 823, the compulsory contributions of the annuitant to the
10 Fund for such service, together with any special contribu-
11 tions the annuitant may have made for other service per-
12 formed after the date of separation from the Service which
13 forms the basis for annuity, shall be returned to the annu-
14 itant.

15 (c) If all annuity rights under this chapter based on the
16 service of a deceased participant or annuitant terminate
17 before the total annuity paid equals the lump-sum credit, the
18 difference shall be paid in accordance with subsection (f).

19 (d) If a participant or former participant dies and is not
20 survived by an individual eligible for an annuity under this
21 chapter or by such an individual or individuals all of whose
22 annuity rights terminate before a claim for survivor annuity
23 is filed, the lump-sum credit shall be paid in accordance with
24 subsection (f).

1 (e) If an annuitant who was a former participant dies,
2 any annuity accrued and unpaid shall be paid in accordance
3 with subsection (f).

4 (f) Payments under subsections (c) through (e) shall be
5 paid in the following order of precedence to individuals sur-
6 viving the participant and alive on the date entitlement to the
7 payment arises, upon the establishment of a valid claim
8 therefor, and such payment shall be a bar to recovery by any
9 other person:

10 (1) To the beneficiary or beneficiaries last desig-
11 nated by the participant before or after retirement in a
12 signed and witnessed writing filed with the Secretary
13 of State prior to the death of the participant, for which
14 purpose a designation, change, or cancellation of bene-
15 ficiary in a will or other document which is not so ex-
16 ecuted and filed shall have no force or effect.

17 (2) If there is no such beneficiary, to the surviving
18 wife or husband of the participant.

19 (3) If none of the above, to the child (without
20 regard to the definition in section 804(2)) or children of
21 the participant (including adopted and natural children
22 but not stepchildren) and descendants of deceased chil-
23 dren by representation.

24 (4) If none of the above, to the parents of the par-
25 ticipant or the survivor of them.

1 (5) If none of the above, to the duly appointed ex-
2 ecutor or administrator of the estate of the participant.

3 (6) If none of the above, to such other next of kin
4 of the participant as may be determined in the judg-
5 ment of the Secretary of State to be legally entitled to
6 such payment, except that no payment shall be made
7 under this paragraph until after the expiration of 30
8 days after the death of the participant or annuitant.

9 (g) Annuity accrued and unpaid on the death of a survi-
10 vor annuitant shall be paid in the following order of prece-
11 dence, and the payment bars recovery by any other person:

12 (1) To the duly appointed executor or administra-
13 tor of the estate of the survivor annuitant.

14 (2) If there is no such executor or administrator,
15 to such person as may be determined by the Secretary
16 of State (after the expiration of 30 days from the date
17 of death of the survivor annuitant) to be entitled under
18 the laws of the domicile of the survivor annuitant at
19 the time of death.

20 (h) Amounts deducted and withheld from basic salary of
21 a participant under section 805 from the beginning of the first
22 pay period after the participant has completed 35 years of
23 service computed under section 816 (excluding service credit
24 for unused sick leave under section 816(b)), together with
25 interest on the amounts at the rate of 3 percent a year com-

1 pounded annually from the date of the deduction to the date
2 of retirement or death, shall be applied toward any special
3 contribution due under section 805(d), and any balance not so
4 required shall be refunded in a lump sum to the participant
5 after separation or, in the event of a death in service, to a
6 beneficiary in the order of precedence specified in subsection
7 (f).

8 SEC. 816. CREDITABLE SERVICE.—(a) Except as oth-
9 erwise specified by law, all periods of civilian and military
10 and naval service, and all other periods through the date of
11 final separation of a participant from the Service that the
12 Secretary of State determines would be creditable toward re-
13 tirement under the Civil Service Retirement and Disability
14 System (as determined in accordance with section 8332 of
15 title 5, United States Code), shall be creditable for purposes
16 of this chapter. Conversely, any such service performed after
17 December 31, 1976, that would not be creditable under spec-
18 ified conditions under section 8332 of title 5, United States
19 Code, shall be excluded under this chapter under the same
20 conditions.

21 (b) In computing any annuity under this chapter, the
22 total service of a participant who retires on an immediate
23 annuity or who dies leaving a survivor or survivors entitled
24 to annuity includes (without regard to the 35-year limitation
25 imposed by section 806(a)) the days of unused sick leave to

1 the credit of the participant, except that these days shall not
2 be counted in determining average basic salary or annuity
3 eligibility under this chapter. A contribution to the Fund shall
4 not be required from a participant for this service credit.

5 (c)(1) A participant who enters on approved leave with-
6 out pay to serve as a full-time officer or employee of an orga-
7 nization composed primarily of Government employees may,
8 within 60 days after entering on that leave without pay, file
9 with the employing agency an election to receive full retire-
10 ment credit for such periods of leave without pay and arrange
11 to pay concurrently into the Fund through the employing
12 agency, amounts equal to the retirement deductions and
13 agency contributions on the Foreign Service salary rate that
14 would be applicable if the participant were in a pay status. If
15 the election and all payments provided by this subsection are
16 not made for the periods of such leave without pay occurring
17 after November 7, 1976, the participant may not receive any
18 credit for such periods of leave without pay occurring after
19 such date.

20 (2) A participant may make a special contribution for
21 any period or periods of approved leave without pay while
22 serving before November 7, 1976, as a full-time officer or
23 employee of an organization composed primarily of Govern-
24 ment employees. Any such contribution shall be based upon
25 the suspended Foreign Service salary rate and shall be com-

1 puted in accordance with section 805. A participant who
2 makes such contributions shall be allowed full retirement
3 credit for the period or periods of leave without pay. If this
4 contribution is not made, up to 6 months' retirement credit
5 shall be allowed for such periods of leave without pay each
6 calendar year.

7 (d) A participant who has received a refund of retire-
8 ment contributions (which has not been repaid) under this or
9 any other retirement system for Government employees cov-
10 ering service which may be creditable may make a special
11 contribution for such service under section 805. Credit may
12 not be allowed for service covered by the refund unless the
13 special contribution is made.

14 (e) No credit in annuity computation shall be allowed for
15 any period of civilian service for which a participant made
16 retirement contributions to another retirement system for
17 Government employees unless—

18 (1) the right to any annuity under the other
19 system which is based on such service is waived, and
20 (2) a special contribution is made under section
21 805 covering such service.

22 (f) A participant who during a period of war, or national
23 emergency proclaimed by the President or declared by the
24 Congress, leaves the Service to enter the military service is
25 deemed, for the purpose of this chapter, as not separated

1 from the Service unless the participant applies for and re-
2 ceives a lump-sum payment under section 815. However, the
3 participant is deemed to be separated from the Service after
4 the expiration of 5 years of such military service.

5 (g)(1) An annuity or survivor annuity based on the serv-
6 ice of a participant of Japanese ancestry who would be eligi-
7 ble under section 8332(l) of title 5, United States Code, for
8 credit for civilian service for periods of internment during
9 World War II shall, upon application to the Secretary of
10 State, be recomputed to give credit for that service. Any such
11 recomputation of an annuity shall apply with respect to
12 months beginning more than 30 days after the date on which
13 application for such recomputation is received by the Secre-
14 tary of State.

15 (2) The Secretary of State shall take such action as may
16 be necessary and appropriate to inform individuals entitled to
17 have any service credited or annuity recomputed under
18 this subsection of their entitlement to such credit or
19 recomputation.

20 (3) The Secretary of State shall, on request, assist any
21 individual referred to in paragraph (1) in obtaining from any
22 agency or other Government establishment information nec-
23 essary to verify the entitlement of the individual to have any
24 service credited or any annuity recomputed under this
25 subsection.

1 (4) Any agency or other Government establishment
2 shall, upon request, furnish to the Secretary of State any
3 information it possesses with respect to the internment or
4 other detention, as described in section 8332(l) of title 5,
5 United States Code, of any participant.

6 (h) A participant who, while on approved leave without
7 pay, serves as a full-time paid employee of a Member or
8 office of the Congress shall continue to make contributions to
9 the Fund based upon the Foreign Service salary rate that
10 would be in effect if the participant were in a pay status. The
11 participant's employing office in the Congress shall make a
12 matching contribution (from the appropriation or fund which
13 is used for payment of the salary of the participant) to the
14 Treasury of the United States to the credit of the Fund. All
15 periods of service for which full contributions to the Fund are
16 made under this subsection shall be counted as creditable
17 service for purposes of this chapter and shall not, unless all
18 retirement credit is transferred, be counted as creditable
19 service under any other Government retirement system.

20 SEC. 817. EXTRA CREDIT FOR SERVICE AT UN-
21 HEALTHFUL Posts.—The Secretary of State may from time
22 to time establish a list of places which by reason of climatic
23 or other extreme conditions are to be classed as unhealthy
24 posts. Each year of duty at such posts, inclusive of regular
25 leaves of absence, shall be counted as one and a half years in

1 computing the length of the service of a participant for the
2 purpose of retirement, fractional months being considered as
3 full months in computing such service. No such extra credit
4 for service at such unhealthful posts shall be credited to any
5 participant who is paid a differential under section 5925 or
6 5928 of title 5, United States Code, for such service.

7 SEC. 818. ESTIMATE OF APPROPRIATIONS

8 NEEDED.—The Secretary of the Treasury shall prepare the
9 estimates of the annual appropriations required to be made to
10 the Fund, and shall make actuarial valuations of the System
11 at intervals of not more than five years. The Secretary of
12 State may expend from money to the credit of the Fund an
13 amount not exceeding \$5,000 per year for the incidental ex-
14 penses necessary in administering the provisions of this chap-
15 ter, including actuarial advice.

16 SEC. 819. INVESTMENT OF THE FUND.—The Secre-
17 tary of the Treasury shall invest from time to time in inter-
18 est-bearing securities of the United States such portions of
19 the Fund as in the judgment of the Secretary of the Treasury
20 may not be immediately required for the payment of annu-
21 ities, cash benefits, refunds, and allowances. The income de-
22 rived from such investments shall constitute a part of the
23 Fund.

24 SEC. 820. ASSIGNMENT AND ATTACHMENT OF
25 MONEY.—(a)(1) An individual entitled to an annuity from

1 the Fund may make allotments or assignments of amounts
2 from such annuity for such purposes as the Secretary of State
3 in his or her sole discretion considers appropriate.

4 (2) Notwithstanding section 3477 of the Revised Statutes of the United States (31 U.S.C. 203) or any other law, a
5 member of the Service who is entitled to receive benefits
6 under section 609(b)(1) may assign to any person the whole
7 or any part of those benefits. Any such assignment shall be
8 on a form approved by the Secretary of the Treasury and a
9 copy of such assignment form shall be deposited with the
10 Secretary of the Treasury by the member executing the
11 assignment.

13 (b)(1) Payments under this chapter which would otherwise be made to a participant or annuitant based upon his or
14 her service shall be paid (in whole or in part) by the Secretary to another person to the extent expressly provided for in
15 the terms of any court decree of divorce, annulment, or legal
16 separation, or the terms of any court order or court-approved
17 property settlement agreement incident to any court decree
18 of legal separation.

21 (2) Any former spouse of a participant or former participant shall be entitled to a survivor annuity under section
22 814(a) of this chapter if and to the extent expressly so provided for in the terms of a court decree of divorce or annulment,
23 or the terms of any court order incident to such decree.

1 (3) This subsection shall not apply in the case of any
2 court decree or order which is inconsistent with the require-
3 ments of this chapter, as determined by the Secretary of
4 State.

5 (4) Paragraphs (1) and (2) shall apply only to payments
6 made under this chapter for periods beginning after the date
7 of receipt by the Secretary of State of written notice of such
8 decree, order, or agreement, and such additional information
9 and such documentation as the Secretary of State may
10 require.

11 (5) Any payment under this subsection to an individual
12 bars recovery by any other individual.

13 (c) None of the moneys mentioned in this chapter shall
14 be assignable either in law or equity, except under subsection
15 (a) or (b) of this section, or subject to execution, levy, attach-
16 ment, garnishment, or other legal process, except as other-
17 wise may be provided by Federal law.

18 SEC. 821. PAYMENTS FOR FUTURE BENEFITS.—(a)

19 Any statute which authorizes—

20 (1) new or liberalized benefits payable from the
21 Fund, including annuity increases other than under
22 section 825;

23 (2) extension of the benefits of the System to new
24 groups of employees; or

1 (3) increases in salary on which benefits are
2 computed;

3 is deemed to authorize appropriations to the Fund to finance
4 the unfunded liability created by that statute, in 30 equal
5 annual installments with interest computed at the rate used
6 in the then most recent valuation of the System and with the
7 first payment thereof due as of the end of the fiscal year in
8 which each new or liberalized benefit, extension of benefits,
9 or increase in salary is effective.

10 (b) There is authorized to be appropriated to the Fund
11 for each fiscal year an amount equal to the amount of the
12 Foreign Service normal cost for that year which is not met
13 by contributions to the Fund under section 805(a).

14 SEC. 822. UNFUNDDED LIABILITY OBLIGATIONS.—(a)
15 At the end of each fiscal year, the Secretary of State shall
16 notify the Secretary of the Treasury of the amount equivalent
17 to—

18 (1) interest on the unfunded liability computed for
19 that year at the interest rate used in the then most
20 recent valuation of the System, and

21 (2) that portion of disbursement for annuities for
22 that year which the Secretary of State estimates is
23 attributable to credit allowed for military and naval
24 service.

1 (b) Before closing the accounts for each fiscal year, the
2 Secretary of the Treasury shall credit such amounts to the
3 Fund, as a Government contribution, out of any money in the
4 Treasury of the United States not otherwise appropriated.

5 (c) Requests for appropriations to the Fund under sec-
6 tion 821(b) shall include reports to the Congress on the sums
7 credited to the Fund under this section.

8 **SEC. 823. ANNUITY ADJUSTMENT FOR RECALL SERV-**
9 **ICE.**—(a) Any annuitant recalled to duty in the Service under
10 section 308(a) shall, while so serving, be entitled in lieu of
11 annuity to the full salary of the class in which serving.
12 During such service the recalled annuitant shall make contri-
13 butions to the Fund in accordance with section 805. On the
14 day following termination of the recall service, the former
15 annuity shall be resumed, adjusted by any cost-of-living in-
16 creases under section 825 that became effective during the
17 recall period.

18 (b) If the recall service lasts less than one year, the
19 contributions of the annuitant to the Fund during recall serv-
20 ice shall be refunded in accordance with section 815. If the
21 recall service lasts more than one year, the annuitant may, in
22 lieu of such refund, elect a supplemental annuity computed
23 under section 806 on the basis of service credit and average
24 salary earned during the recall period irrespective of the
25 number of years of service credit previously earned. If the

1 recall service continues for at least 5 years, the annuitant
2 may elect to have his or her annuity determined anew under
3 section 806 in lieu of any other benefits under this section.
4 Any annuitant who is recalled under section 308 may upon
5 written application count as recall service any prior service
6 that is creditable under section 816 that was performed after
7 the separation upon which his or her annuity is based.

8 **SEC. 824. REEMPLOYMENT.**—(a) Notwithstanding any
9 other law, any member of the Service who has retired and is
10 receiving an annuity under this chapter, and who is reem-
11 ployed in the Government service in any part-time or full-
12 time appointive position, shall be entitled to receive the
13 salary of the position in which he or she is serving plus so
14 much of the annuity payable under this chapter which when
15 combined with such salary does not exceed during any calen-
16 dar year the basic salary the member was entitled to receive
17 under this Act on the date of retirement from the Service.
18 Any such reemployed member of the Service who receives
19 salary during any calendar year in excess of the maximum
20 amount which he or she may be entitled to receive under this
21 subsection shall be entitled to such salary in lieu of benefits
22 under this chapter.

23 (b) When any such retired member of the Service is
24 reemployed, the employer shall send a notice of such reem-
25 ployment to the Secretary of State, together with all perti-

1 nent information relating to such employment, and shall pay
2 directly to such member the salary of the position in which he
3 or she is serving.

4 (c) In the event of any overpayment under this section,
5 such overpayment shall be recovered by withholding the
6 amount involved from the salary payable to such reemployed
7 member of the Service or from any other moneys, including
8 annuity payments, payable under this chapter.

9 SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) The vol-
10 untary contribution account shall be the sum of unrefunded
11 amounts voluntarily contributed prior to the effective date of
12 this Act by any participant or former participant under any
13 prior law authorizing such contributions to the Fund, plus
14 interest compounded at the rate of 3 percent per year to the
15 date of separation from the Service or (in case of participant
16 or former participant separated with entitlement to a deferred
17 annuity) to the date the voluntary contribution account is
18 claimed, the commencing date fixed for the deferred annuity,
19 or the date of death, whichever is earlier. Effective on the
20 date the participant becomes eligible for an annuity or a de-
21 ferred annuity and at the election of the participant, his or
22 her account shall be—

- 23 (1) returned in a lump sum;
24 (2) used to purchase an additional life annuity;

1 (3) used to purchase an additional life annuity for
2 the participant and to provide for a cash payment on
3 his or her death to a beneficiary whose name shall be
4 notified in writing to the Secretary of State by the par-
5 ticipant; or

6 (4) used to purchase an additional life annuity for
7 the participant and a life annuity commencing on his or
8 her death payable to a beneficiary whose name shall be
9 notified in writing to the Secretary of State by the par-
10 ticipant, with a guaranteed return to the beneficiary or
11 his or her legal representative of an amount equal to
12 the cash payment referred to in paragraph (3).

13 (b) The benefits provided by subsection (a) (2), (3), or (4)
14 shall be actuarially equivalent in value to the payment pro-
15 vided for by subsection (a)(1) and shall be calculated upon
16 such tables of mortality as may be from time to time pre-
17 scribed for this purpose by the Secretary of the Treasury.

18 (c) A voluntary contribution account shall be paid in a
19 lump sum following receipt of an application therefor from a
20 present or former participant if application is filed prior to
21 payment of any additional annuity. If not sooner paid, the
22 account shall be paid at such time as the participant sepa-
23 rates from the Service for any reason without entitlement to
24 an annuity or a deferred annuity or at such time as a former
25 participant dies or withdraws compulsory contributions to the

1 Fund. In case of death, the account shall be paid in the order
2 of precedence specified in section 815(f).

3 SEC. 826. COST-OF-LIVING ADJUSTMENTS OF ANNU-
4 ITIES.—(a) A cost-of-living annuity increase shall become ef-
5 fective under this section on the effective date of each such
6 increase under section 8340(b) of title 5, United States Code.
7 Each such increase shall be applied to each annuity payable
8 from the Fund which has a commencing date not later than
9 the effective date of the increase.

10 (b) Each annuity increase under this section shall be
11 identical to the corresponding percentage increase under sec-
12 tion 8340(b) of title 5, United States Code.

13 (c) Eligibility for an annuity increase under this section
14 shall be governed by the commencing date of each annuity
15 payable from the Fund as of the effective date of an increase
16 except as follows:

17 (1) An annuity (except a deferred annuity) payable
18 from the Fund to a participant who retires and re-
19 ceives an immediate annuity, or to a surviving spouse
20 or former spouse of a deceased participant who dies in
21 service or who dies after being separated with benefits
22 under section 609(b)(2), which has a commencing date
23 after the effective date of the then last preceding gen-
24 eral annuity increase under this section shall not be
25 less than the annuity which would have been payable if

1 the commencing date of such annuity had been the ef-
2 fective date of such last preceding increase. In the ad-
3 ministration of this paragraph, the number of days of
4 unused sick leave to the credit of a participant or de-
5 ceased participant on the effective date of the then last
6 preceding general annuity increase under this section
7 shall be deemed to be equal to the number of days of
8 unused sick leave to his or her credit on the day of
9 separation from the Service.

10 (2) Effective from its commencing date, an annu-
11 ity payable from the Fund to the survivor of an
12 annuitant, except a child entitled to an annuity under
13 section 806(c) or 809(c) or (d), shall be increased by
14 the total percentage increase the annuitant was receiv-
15 ing under this section at death.

16 (3) For purposes of computing or recomputing an
17 annuity to a child under section 806(c) or (d) or 809(c)
18 or (d), the items \$900, \$1,080, \$2,700, and \$3,240 ap-
19 pearing in section 806(c) shall be increased by the total
20 percentage increases by which corresponding amounts
21 are being increased under section 8340 of title 5,
22 United States Code, on the date the annuity of the
23 child becomes effective.

1 (d) No increase in annuity provided by this section shall
2 be computed on any additional annuity purchased at retire-
3 ment by voluntary contributions.

4 (e) The monthly installment of annuity after adjustment
5 under this section shall be fixed at the nearest dollar, except
6 such installment shall after adjustment reflect an increase of
7 at least \$1.

8 (f) Effective from its commencing date, there shall be an
9 increase of 10 percent in the annuity of each surviving spouse
10 whose entitlement to annuity resulted from the death of an
11 annuitant who, prior to October 1, 1976, elected a reduced
12 annuity in order to provide a spouse's survivor annuity.

13 SEC. 827. COMPATIBILITY BETWEEN CIVIL SERVICE
14 AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In
15 order to maintain existing conformity between the Civil Serv-
16 ice Retirement and Disability System under subchapter III of
17 chapter 83 of title 5, United States Code, and the Foreign
18 Service Retirement and Disability System, whenever a law
19 of general applicability is enacted which—

20 (1) affects the treatment of current or former par-
21 ticipants, annuitants, or survivors under the Civil Serv-
22 ice Retirement and Disability System; and

23 (2) affects treatment which, immediately prior to
24 the enactment of such law, was substantially identical
25 to the treatment accorded to participants, former par-

1 ticipants, annuitants, or survivors under the Foreign
2 Service Retirement and Disability System;
3 such law shall be extended in accordance with subsection (b)
4 to the Foreign Service Retirement and Disability System so
5 that it applies in like manner with respect to participants,
6 former participants, annuitants, or survivors under that
7 System.

8 (b) The President shall by Executive order prescribe
9 regulations to implement this section and to make such ex-
10 tension retroactive to a date no earlier than the effective date
11 of the provision of law applicable to the Civil Service Retire-
12 ment and Disability System. Any provision of an Executive
13 order issued under this section shall modify, supersede, or
14 render inapplicable, as the case may be, to the extent incon-
15 sistent therewith—

16 (1) all provisions of law enacted prior to the effec-
17 tive date of that provision of the Executive order, and
18 (2) any prior provision of an Executive order
19 issued under this section.

20 CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

21 SEC. 901. TRAVEL AND RELATED EXPENSES.—The
22 Secretary may pay the travel and related expenses of mem-
23 bers of the Service and their families, including costs or ex-
24 penses incurred for—

1 (1) proceeding to and returning from assigned
2 posts of duty;

3 (2) authorized or required home leave;

4 (3) family members to accompany, precede, or
5 follow a member of the Service to a place of temporary
6 duty;

7 (4) representational travel within the country to
8 which the member of the Service is assigned or, when
9 not more than one family member participates, outside
10 such country;

11 (5) obtaining necessary medical care for an illness,
12 injury, or medical condition while abroad in a locality
13 where there is no suitable person or facility to provide
14 such care (without regard to those laws and regulations
15 limiting or restricting the furnishing or payment
16 of transportation and traveling expenses), as well as
17 expenses for—

18 (A) an attendant or attendants for a member
19 of the Service or a family member who is too ill
20 to travel unattended or for a family member who
21 is too young to travel alone, and

22 (B) a family member incapable of caring for
23 himself or herself if he or she remained at the
24 post at which the member of the Service is serv-
25 ing;

1 (6) rest and recuperation travel of members of the
2 Service who are United States citizens, and members
3 of their families, while serving at locations abroad spe-
4 cifically designated by the Secretary for purposes of
5 this paragraph, to—

6 (A) other locations abroad having different
7 social, climatic, or other environmental conditions
8 than those at the post at which the member of the
9 Service is serving, or

10 (B) locations in the United States;
11 except that, unless the Secretary otherwise specifies in
12 extraordinary circumstances, travel expenses under this
13 paragraph shall be limited to the cost for a member of
14 the Service, and for each member of the family of the
15 member, of 1 round trip during any continuous 2-year
16 tour unbroken by home leave and of 2 round trips
17 during any continuous 3-year tour unbroken by home
18 leave;

19 (7) removal of the family members of a member of
20 the Service, and the furniture and household and per-
21 sonal effects (including automobiles) of the family, from
22 a Foreign Service post where there is imminent danger
23 because of the prevalence of disturbed conditions, and
24 the return of such individuals, furniture, and effects to
25 such post upon the cessation of such conditions, or to

1 such other Foreign Service post as may in the mean-
2 time have become the post to which the member of the
3 Service has been reassigned;

4 (8) trips by a member of the Service for purposes
5 of family visitation in situations where the family of the
6 member is prevented by official order from accompan-
7 ying the member to, or has been ordered from, the as-
8 signed post of the member because of imminent danger
9 due to the prevalence of disturbed conditions, except
10 that—

11 (A) with respect to any such member whose
12 family is located in the United States, the Secre-
13 tary may pay the costs and expenses for not to
14 exceed two round trips in a 12-month period; and

15 (B) with respect to any such member whose
16 family is located abroad, the Secretary may pay
17 such costs and expenses for trips in a 12-month
18 period as do not exceed the cost of 2 round trips
19 (at less than first class) to the District of Colum-
20 bia;

21 (9) round-trip travel from a location abroad for
22 purposes of family visitation in emergency situations
23 involving personal hardship;

24 (10) preparing and transporting to the designated
25 home in the United States or to a place not more dis-

1 tant, the remains of a member of the Service, or of a
2 family member of a member of the Service, who dies
3 abroad or while in travel status;

4 (11) transporting the furniture and household and
5 personal effects of a member of the Service (and of his
6 or her family) to successive posts of duty and, on sepa-
7 ration of a member from the Service, to the place
8 where the member will reside (or if the member has
9 died, to the place where his or her family will reside);

10 (12) packing and unpacking, transporting to and
11 from a place of storage, and storing the furniture and
12 household and personal effects of a member of the
13 Service (and of his or her family)—

14 (A) when the member is absent from his or
15 her post of assignment under orders or is assigned
16 to a Foreign Service post to which such furniture
17 and household and personal effects cannot be
18 taken or at which they cannot be used, or when it
19 is in the public interest or more economical to
20 authorize storage;

21 (B) in connection with an assignment of the
22 member to a new post, except that costs and
23 expenses may be paid under this subparagraph
24 only for the period beginning on the date of de-
25 parture from his or her last post or (in the case of

1 a new member) on the date of departure from the
2 place of residence of the member and ending on
3 the earlier of the date which is 3 months after ar-
4 rival of the member at the new post or the date
5 on which the member establishes residence quar-
6 ters; and

7 (C) in connection with separation of the
8 member from the Service, except that costs or
9 expenses may not be paid under this subpara-
10 graph for storing furniture and household and per-
11 sonal effects for more than 3 months;

12 (13) transporting, for or on behalf of a member of
13 the Service, a privately owned motor vehicle in any
14 case in which the Secretary determines that water,
15 rail, or air transportation of the motor vehicle is neces-
16 sary or expedient for all or any part of the distance
17 between points of origin and destination, but transpor-
18 tation may be provided under this paragraph for only
19 one motor vehicle of a member during any 48-month
20 period while the member is continuously serving
21 abroad, except that another motor vehicle may be so
22 transported as a replacement for such motor vehicle if
23 such replacement—

24 (A) is determined, in advance, by the Secre-
25 tary to be necessary for reasons beyond the con-

1 trol of the member and in the interest of the Gov-
2 ernment, or

3 (B) is incident to a reassignment when the
4 cost of transporting the replacement motor vehicle
5 does not exceed the cost of transporting the motor
6 vehicle that is replaced;

7 (14) the travel and relocation of members of the
8 Service, and members of their families, assigned to or
9 within the United States (or any territory or possession
10 of the United States or the Commonwealth of Puerto
11 Rico), including assignments under subchapter VI of
12 chapter 33 of title 5, United States Code (notwith-
13 standing section 3375(a) of such title, if an agreement
14 similar to that required by section 3375(b) of such title
15 is executed by the member of the Service); and

16 (15) 1 round-trip per year for each child below
17 age 21 of a member of the Service assigned abroad—

18 (A) to visit the member abroad if the child
19 does not regularly reside with the member and
20 the member is not receiving an education allow-
21 ance or educational travel allowance for the child
22 under section 5924(4) of title 5, United States
23 Code; or

24 (B) to visit the other parent of the child if
25 the other parent resides in a country other than

1 the country to which the member is assigned and
2 the child regularly resides with the member and
3 does not regularly attend school in the country in
4 which the other parent resides,

5 except that a payment under this paragraph may not
6 exceed the cost of round-trip travel between the post
7 to which the member is assigned and the port of entry
8 in the contiguous 48 States which is nearest to that
9 post.

10 SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Sec-
11 retary may, as a means of eliminating transportation costs,
12 provide members of the Service with basic household furnish-
13 ing and equipment for use on a loan basis in personally
14 owned or leased residences.

15 SEC. 903. REQUIRED LEAVE IN THE UNITED
16 STATES.—(a) The Secretary may order a member of the
17 Service who is a citizen of the United States to take a leave
18 of absence under section 6305 of title 5, United States Code
19 (without regard to the introductory clause of subsection (a) of
20 that section), upon completion by that member of 18 months
21 of continuous service abroad. The Secretary shall order on
22 such a leave of absence a member of the Service who is a
23 citizen of the United States as soon as possible after comple-
24 tion by that member of 3 years of continuous service abroad.

1 (b) Leave ordered under this section may be taken in the
2 United States, its territories and possessions, or the Com-
3 monwealth of Puerto Rico.

4 (c) While on a leave of absence ordered under this sec-
5 tion, the services of any member of the Service shall be avail-
6 able for such work or duties in the Department or elsewhere
7 as the Secretary may prescribe, but the time of such work or
8 duties shall not be counted as leave.

9 SEC. 904. HEALTH CARE.—(a) The Secretary of State
10 may establish a health care program to promote and maintain
11 the physical and mental health of members of the Service,
12 and (when incident to service abroad) other designated eligi-
13 ble Government employees, and members of the families of
14 such members and employees.

15 (b) Any such health care program may include (1) medi-
16 cal examinations for applicants for employment, (2) medical
17 examinations and inoculations or vaccinations for members of
18 the Service and employees of the Department who are citi-
19 zens of the United States and for members of their families,
20 and (3) examinations necessary in order to establish disability
21 or incapacity of participants in the Foreign Service Retire-
22 ment and Disability System or to provide survivor benefits
23 under chapter 8.

24 (c) The Secretary of State may establish health care
25 facilities and provide for the services of physicians, nurses, or

1 other health care personnel at Foreign Service posts abroad
2 at which, in the opinion of the Secretary of State, a sufficient
3 number of Government employees are assigned to warrant
4 such facilities or services.

5 (d) If an individual eligible for health care under this
6 section incurs an illness, injury, or medical condition while
7 abroad which requires hospitalization or similar treatment,
8 the Secretary may pay all or part of the cost of such treat-
9 ment. Limitations on such payments established by regula-
10 tion may be waived whenever the Secretary determines that
11 the illness, injury, or medical condition clearly was caused or
12 materially aggravated by the fact that the individual con-
13 cerned is or has been located abroad.

14 (e) Health care may be provided under this section to a
15 member of the Service or other designated eligible Govern-
16 ment employee after the separation of such member or
17 employee from Government service. Health care may be
18 provided under this section to a member of the family of a
19 member of the Service or of a designated eligible Govern-
20 ment employee after the separation from Government service
21 or the death of such member of the Service or employee or
22 after dissolution of the marriage.

23 (f) The Secretary of State shall review on a continuing
24 basis the health care program provided for in this section.
25 Whenever the Secretary of State determines that all or any

1 part of such program can be provided for as well and as
2 cheaply in other ways, the Secretary may, for such individ-
3 uals, locations, and conditions as the Secretary of State
4 deems appropriate, contract for health care pursuant to such
5 arrangements as the Secretary deems appropriate.

6 **SEC. 905. REPRESENTATION EXPENSES.**—Notwith-
7 standing section 5536 of title 5, United States Code, the
8 Secretary may provide for official receptions and may pay
9 entertainment and representational expenses (including ex-
10 penses of family members) to enable the Department and the
11 Service to provide for the proper representation of the United
12 States and its interests.

13 **CHAPTER 10—LABOR-MANAGEMENT RELATIONS**

14 **SEC. 1001. LABOR-MANAGEMENT POLICY.**—The Con-
15 gress finds that—

16 (1) experience in both private and public employ-
17 ment indicates that the statutory protection of the right
18 of workers to organize, bargain collectively, and par-
19 ticipate through labor organizations of their own choos-
20 ing in decisions which affect them—

21 (A) safeguards the public interest,
22 (B) contributes to the effective conduct of
23 public business, and

1 (C) facilitates and encourages the amicable
2 settlement of disputes between workers and their
3 employers involving conditions of employment;

4 (2) the public interest demands the highest stand-
5 ards of performance by members of the Service and the
6 continuous development and implementation of modern
7 and progressive work practices to facilitate improved
8 performance and efficiency; and

9 (3) the unique conditions of Foreign Service em-
10 ployment require a distinct framework for the develop-
11 ment and implementation of modern, constructive, and
12 cooperative relationships between management officials
13 and organizations representing members of the Service.

14 Therefore, labor organizations and collective bargaining in
15 the Service are in the public interest and are consistent with
16 the requirement of an effective and efficient Government.

17 The provisions of this chapter should be interpreted in a
18 manner consistent with the requirement of an effective and
19 efficient Government.

20 SEC. 1002. DEFINITIONS.—As used in this chapter, the
21 term—

22 (1) “Authority” means the Federal Labor Rela-
23 tions Authority, described in section 7104(a) of title 5,
24 United States Code;

1 (2) "Board" means the Foreign Service Labor
2 Relations Board, established by section 1006(a);

3 (3) "collective bargaining" means the performance
4 of the mutual obligation of the management repre-
5 sentative of the Department and of the exclusive repre-
6 sentative of employees to meet at reasonable times and
7 to consult and bargain in a good-faith effort to reach
8 agreement with respect to the conditions of employ-
9 ment affecting employees, and to execute, if requested
10 by either party, a written document incorporating any
11 collective bargaining agreement reached, but this obli-
12 gation does not compel either party to agree to a pro-
13 posal or to make a concession;

14 (4) "collective bargaining agreement" means an
15 agreement entered into as a result of collective bar-
16 gaining under the provisions of this chapter;

17 (5) "conditions of employment" means personnel
18 policies, practices, and matters, whether established by
19 regulation or otherwise, affecting working conditions,
20 but does not include policies, practices, and matters—

21 (A) relating to political activities prohibited
22 abroad or prohibited under subchapter III of
23 chapter 73 of title 5, United States Code;

24 (B) relating to the designation or classifica-
25 tion of any position under section 501;

1 (C) to the extent such matters are specifi-
2 cally provided for by Federal statute; or

3 (D) relating to Government-wide or multi-
4 agency responsibility of the Secretary affecting
5 the rights, benefits, or obligations of individuals
6 employed in agencies other than those which are
7 authorized to utilize the Foreign Service person-
8 nel system;

9 (6) "confidential employee" means an employee
10 who acts in a confidential capacity with respect to an
11 individual who formulates or effectuates management
12 policies in the field of labor-management relations;

13 (7) "dues" means dues, fees, and assessments;

14 (8) "employee" means—

15 (A) a member of the Service who is a citizen
16 of the United States, wherever serving, other
17 than a management official, a confidential em-
18 ployee, a consular agent, or any individual who
19 participates in a strike in violation of section 7311
20 of title 5, United States Code; or

21 (B) a former member of the Service as de-
22 scribed in subparagraph (A) whose employment
23 has ceased because of an unfair labor practice
24 under section 1015 and who has not obtained any
25 other regular and substantially equivalent employ-

1 ment, as determined under regulations prescribed
2 by the Board;

3 (9) "exclusive representative" means any labor
4 organization which is certified as the exclusive repre-
5 sentative of employees under section 1011;

6 (10) "General Counsel" means the General Coun-
7 sel of the Authority;

8 (11) "labor organization" means an organization
9 composed in whole or in part of employees, in which
10 employees participate and pay dues, and which has as
11 a purpose dealing with the Department concerning
12 grievances (as defined in section 1101) and conditions
13 of employment, but does not include—

14 (A) an organization which, by its constitu-
15 tion, bylaws, tacit agreement among its members,
16 or otherwise, denies membership because of race,
17 color, creed, national origin, sex, age, preferential
18 or nonpreferential civil service status, political af-
19 filiation, marital status, or handicapping condition;

20 (B) an organization which advocates the
21 overthrow of the constitutional form of govern-
22 ment of the United States;

23 (C) an organization sponsored by the Depart-
24 ment; or

1 (D) an organization which participates in the
2 conduct of a strike against the Government or
3 any agency thereof or imposes a duty or obliga-
4 tion to conduct, assist, or participate in such a
5 strike;

6 (12) "management official" means an individual
7 who—

8 (A) is a chief of mission or principal officer;
9 (B) is serving in a position to which ap-
10 pointed by the President, by and with the advice
11 and consent of the Senate, or by the President
12 alone;

13 (C) occupies a position which in the sole
14 judgment of the Secretary is of comparable impor-
15 tance to the offices mentioned in subparagraph (A)
16 or (B);

17 (D) is serving as a deputy to any individual
18 described by subparagraph (A), (B), or (C);

19 (E) is assigned to carry out functions of the
20 Inspector General of the Department of State and
21 the Foreign Service under section 209; or

22 (F) is engaged in the administration of this
23 chapter or in the formulation of the personnel
24 policies and programs of the Department;

1 (13) "Panel" means the Foreign Service Impasse
2 Disputes Panel, established by section 1010(a); and

3 (14) "person" means an individual, a labor orga-
4 nization, or an agency to which this chapter applies.

5 SEC. 1003. APPLICATION.—(a) This chapter applies
6 only with respect to the Department of State, the Interna-
7 tional Communication Agency, the United States Interna-
8 tional Development Cooperation Agency, the Department of
9 Agriculture, and the Department of Commerce.

10 (b) The President may by Executive order exclude any
11 subdivision of the Department from coverage under this
12 chapter if the President determines that—

13 (1) the subdivision has as a primary function intel-
14 ligence, counterintelligence, investigative, or national
15 security work, and

16 (2) the provisions of this chapter cannot be ap-
17 plied to that subdivision in a manner consistent with
18 national security requirements and considerations.

19 (c) The President may by Executive order suspend any
20 provision of this chapter with respect to any post, bureau,
21 office, or activity of the Department, if the President deter-
22 mines in writing that the suspension is necessary in the inter-
23 est of national security because of an emergency.

24 SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee
25 has the right to form, join, or assist any labor organization,

1 or to refrain from any such activity, freely and without fear of
2 penalty or reprisal. Each employee shall be protected in the
3 exercise of such right.

4 (b) Except as otherwise provided under this chapter,
5 such right includes the right—

6 (1) to act for a labor organization in the capacity
7 of a representative and, in that capacity, to present the
8 views of the labor organization to the Secretary and
9 other officials of the Government, including the Con-
10 gress, or other appropriate authorities; and

11 (2) to engage in collective bargaining with respect
12 to conditions of employment through representatives
13 chosen by employees under this chapter.

14 SEC. 1005. MANAGEMENT RIGHTS.—(a) Subject to
15 subsection (b), nothing in this chapter shall affect the authori-
16 ty of any management official of the Department, in accord-
17 ance with applicable law—

18 (1) to determine the mission, budget, organization,
19 and internal security practices of the Department, and
20 the number of individuals in the Service or in the De-
21 partment;

22 (2) to hire, assign, direct, lay off, and retain indi-
23 viduals in the Service or in the Department, to sus-
24 pend, remove, or take other disciplinary action against
25 such individuals, and to determine the number of mem-

1 bers of the Service to be promoted and to remove the
2 name of or delay the promotion of any member in ac-
3 cordance with regulations prescribed under section
4 605(b);

5 (3) to assign work, to make determinations with
6 respect to contracting out, and to determine the per-
7 sonnel by which the operations of the Department shall
8 be conducted;

9 (4) to fill positions from any appropriate source;

10 (5) to determine the need for uniform personnel
11 policies and procedures between or among the agencies
12 to which this chapter applies; and

13 (6) to take whatever actions may be necessary to
14 carry out the mission of the Department during emer-
15 gencies.

16 (b) Nothing in this section shall preclude the Depart-
17 ment and the exclusive representative from negotiating—

18 (1) at the election of the Department, on the num-
19 bers, types, and classes of employees or positions as-
20 signed to any organizational subdivision, work project,
21 or tour of duty, or on the technology, methods, and
22 means of performing work;

23 (2) procedures which management officials of the
24 Department will observe in exercising any function
25 under this section; or

1 (3) appropriate arrangements for employees ad-
2 versely affected by the exercise of any function under
3 this section by such management officials.

4 SEC. 1006. FOREIGN SERVICE LABOR RELATIONS

5 BOARD.—(a) There is established within the Federal Labor
6 Relations Authority the Foreign Service Labor Relations
7 Board. The Board shall be composed of 3 members, 1 of
8 whom shall be the Chairman of the Authority, who shall be
9 the Chairperson of the Board. The remaining 2 members
10 shall be appointed by the Chairperson of the Board from
11 nominees approved in writing by the agencies to which this
12 chapter applies, and the exclusive representative (if any) of
13 employees in each such agency. In the event of inability to
14 obtain agreement on a nominee, the Chairperson shall ap-
15 point the remaining 2 members from among individuals the
16 Chairperson considers knowledgeable in labor-management
17 relations and the conduct of foreign affairs.

18 (b) The Chairperson shall serve on the Board while
19 serving as Chairman of the Authority. Of the 2 original mem-
20 bers of the Board other than the Chairperson, one shall be
21 appointed for a 2-year term and one shall be appointed for a
22 3-year term. Thereafter, each member of the Board other
23 than the Chairperson shall be appointed for a term of 3 years,
24 except that an individual appointed to fill a vacancy occur-
25 ring before the end of a term shall be appointed for the unex-

1 pired term of the member replaced. The Chairperson may at
2 any time designate an alternate Chairperson from among the
3 members of the Authority.

4 (c) A vacancy on the Board shall not impair the right of
5 the remaining members to exercise the full powers of the
6 Board.

7 (d) The members of the Board, other than the Chairper-
8 son, may not hold another office or position in the Govern-
9 ment except as authorized by law, and shall receive compen-
10 sation at the daily equivalent of the rate payable for level V
11 of the Executive Schedule under section 5316 of title 5,
12 United States Code, for each day they are performing their
13 duties (including traveltme).

14 (e) The Chairperson may remove any other Board
15 member, upon written notice, for corruption, neglect of duty,
16 malfeasance, or demonstrated incapacity to perform his or
17 her functions, established at a hearing, except where the
18 right to a hearing is waived in writing.

19 SEC. 1007. FUNCTIONS OF THE BOARD.—(a) The
20 Board shall—

21 (1) supervise or conduct elections and determine
22 whether a labor organization has been selected as the
23 exclusive representative by a majority of employees
24 who cast valid ballots and otherwise administer the

150

1 provisions of this chapter relating to the according of
2 exclusive recognition to a labor organization;

3 (2) resolve complaints of alleged unfair labor prac-
4 tices;

5 (3) resolve issues relating to the obligation to bar-
6 gain in good faith;

7 (4) resolve disputes concerning the effect, the in-
8 terpretation, or a claim of breach of a collective bar-
9 gaining agreement, in accordance with section 1014;
10 and

11 (5) take any action considered necessary to ad-
12 minister effectively the provisions of this chapter.

13 (b) Decisions of the Board under this chapter shall be
14 consistent with decisions rendered by the Authority under
15 chapter 71 of title 5, United States Code, other than in cases
16 in which the Board finds that special circumstances require
17 otherwise. Decisions of the Board under this chapter shall
18 not be construed as precedent by the Authority, or any court
19 or other authority, for any decision under chapter 71 of title
20 5, United States Code.

21 (c) In order to carry out its functions under this chap-
22 ter—

23 (1) the Board shall by regulation adopt procedures
24 to apply in the administration of this chapter; and

25 (2) the Board may—

- 1 (A) adopt other regulations concerning its
2 functions under this chapter;
- 3 (B) conduct appropriate inquiries wherever
4 persons subject to this chapter are located;
- 5 (C) hold hearings;
- 6 (D) administer oaths, take the testimony or
7 deposition of any individual under oath, and issue
8 subpenas;
- 9 (E) require the Department or a labor orga-
10 nization to cease and desist from violations of this
11 chapter and require it to take any remedial action
12 the Board considers appropriate to carry out this
13 chapter; and
- 14 (F) consistent with the provisions of this
15 chapter, exercise the functions the Authority has
16 under chapter 71 of title 5, United States Code,
17 to the same extent and in the same manner as is
18 the case with respect to persons subject to chap-
19 ter 71 of such title.

20 SEC. 1008. FUNCTIONS OF THE GENERAL COUN-
21 SEL.—The General Counsel may—

- 22 (1) investigate alleged unfair labor practices under
23 this chapter,
- 24 (2) file and prosecute complaints under this chap-
25 ter, and

1 (3) exercise such other powers of the Board as the
2 Board may prescribe.

3 SEC. 1009. JUDICIAL REVIEW AND ENFORCEMENT.—

4 (a) Except as provided in section 1014(d), any person ag-
5 grieved by a final order of the Board may, during the 60-day
6 period beginning on the date on which the order was issued,
7 institute an action for judicial review of such order in the
8 United States Court of Appeals for the District of Columbia.

9 (b) The Board may petition the United States Court of
10 Appeals for the District of Columbia for the enforcement of
11 any order of the Board under this chapter and for any appro-
12 priate temporary relief or restraining order.

13 (c) Subsection (c) of section 7123 of title 5, United
14 States Code, shall apply to judicial review and enforcement
15 of actions by the Board in the same manner that it applies to
16 judicial review and enforcement of actions of the Authority
17 under chapter 71 of title 5, United States Code.

18 (d) The Board may, upon issuance of a complaint as
19 provided in section 1016 charging that any person has en-
20 gaged in or is engaging in an unfair labor practice, petition
21 the United States District Court for the District of Columbia,
22 for appropriate temporary relief (including a restraining
23 order). Upon the filing of the petition, the court shall cause
24 notice thereof to be served upon the person, and thereupon
25 shall have jurisdiction to grant any temporary relief (includ-

1 ing a temporary restraining order) it considers just and
2 proper. A court shall not grant any temporary relief under
3 this section if it would interfere with the ability of the De-
4 partment to carry out its essential functions or if the Board
5 fails to establish probable cause that an unfair labor practice
6 is being committed.

7 SEC. 1010. FOREIGN SERVICE IMPASSE DISPUTES
8 PANEL.—(a) There is established within the Federal Labor
9 Relations Authority the Foreign Service Impasse Disputes
10 Panel, which shall assist in resolving negotiating impasses
11 arising in the course of collective bargaining under this chap-
12 ter. The Chairperson shall select the Panel from among indi-
13 viduals the Chairperson considers knowledgeable in labor-
14 management relations or the conduct of foreign affairs. The
15 Panel shall be composed of 5 members, as follows:

16 (1) 2 members of the Service (other than a man-
17 agement official, a confidential employee, or a labor
18 organization official);
19 (2) one individual employed by the Department of
20 Labor;
21 (3) one member of the Federal Service Impasses
22 Panel; and
23 (4) one public member who does not hold any
24 other office or position in the Government.

1 The Chairperson of the Board shall set the terms of office for
2 Panel members and determine who shall chair the Panel.

3 (b) Panel members referred to in subsection (a) (3) and
4 (4) shall receive compensation for each day they are perform-
5 ing their duties (including traveltme) at the daily equivalent
6 of the maximum rate payable for grade GS-18 of the Gen-
7 eral Schedule under section 5332 of title 5, United States
8 Code, except that the member who is also a member of the
9 Federal Service Impasses Panel shall not be entitled to pay
10 under this subsection for any day for which he or she receives
11 pay under section 7119(b)(4) of title 5, United State Code.

12 Members of the Panel shall be entitled to travel expenses as
13 provided under section 5703 of title 5, United States Code.

14 (c)(1) The Panel or its designee shall promptly investi-
15 gate any impasse presented to it by a party. The Panel shall
16 consider the impasse and shall either—

17 (A) recommend to the parties to the negotiation
18 procedures for the resolution of the impasse; or

19 (B) assist the parties in resolving the impasse
20 through whatever methods and procedures, including
21 factfinding and recommendations, it may consider ap-
22 propiate to accomplish the purpose of this section.

23 (2) If the parties do not arrive at a settlement after as-
24 sistance by the Panel under paragraph (1), the Panel may—

25 (A) hold hearings;

1 (B) administer oaths, take the testimony or depo-
2 sition of any individual under oath, and issue subpoenas
3 as provided in section 7132 of title 5, United States
4 Code; and

5 (C) take whatever action is necessary and not in-
6 consistent with this chapter to resolve the impasse.

7 (3) Notice of any final action of the Panel under this
8 section shall be promptly served upon the parties, and the
9 action shall be binding on such parties during the term of the
10 collective bargaining agreement unless the parties agree oth-
11 erwise.

12 SEC. 1011. EXCLUSIVE RECOGNITION.—(a) The De-
13 partment shall accord exclusive recognition to a labor organi-
14 zation if the organization has been selected as the representa-
15 tive, in a secret ballot election, by a majority of the employ-
16 ees in a unit who cast valid ballots in the election.

17 (b) If a petition is filed with the Board—

18 (1) by any person alleging—

19 (A) in the case of a unit for which there is
20 no exclusive representative, that 30 percent of the
21 employees in the unit wish to be represented for
22 the purpose of collective bargaining by an exclu-
23 sive representative, or

24 (B) in the case of a unit for which there is an
25 exclusive representative, that 30 percent of the

1 employees in the unit alleged that the exclusive
2 representative is no longer the representative of
3 the majority of the employees in the unit; or
4 (2) by any person seeking clarification of, or an
5 amendment to, a certification then in effect or a matter
6 relating to representation;
7 the Board shall investigate the petition, and if it has reason-
8 able cause to believe that a question of representation exists,
9 it shall provide an opportunity for a hearing (for which a
10 transcript shall be kept) after reasonable notice. If the Board
11 finds on the record of the hearing that a question of represen-
12 tation exists, the Board shall supervise or conduct an election
13 on the question by secret ballot and shall certify the results
14 thereof. An election under this subsection shall not be con-
15 ducted in any unit within which a valid election under this
16 subsection has been held during the preceding 12 calendar
17 months or with respect to which a labor organization has
18 been certified as the exclusive representative during the pre-
19 ceding 24 calendar months.

20 (c) A labor organization which—
21 (1) has been designated by at least 10 percent of
22 the employees in the unit; or
23 (2) is the exclusive representative of the employ-
24 ees involved;

1 may intervene with respect to a petition filed pursuant to
2 subsection (b) and shall be placed on the ballot of any election
3 under subsection (b) with respect to the petition.

4 (d)(1) The Board shall determine who is eligible to vote
5 in any election under this section and shall establish regula-
6 tions governing any such election, which shall include regula-
7 tions allowing employees eligible to vote the opportunity to
8 choose—

9 (A) from labor organizations on the ballot, that
10 labor organization which the employees wish to have
11 represent them; or

12 (B) not to be represented by a labor organization.

13 (2) In any election in which more than two choices are
14 on the ballot, the regulations of the Board shall provide for
15 preferential voting. If no choice receives a majority of first
16 preferences, the Board shall distribute to the two choices
17 having the most first preferences the preferences as between
18 those two of the other valid ballots cast. The choice receiving
19 a majority of preferences shall be declared the winner. A
20 labor organization which is declared the winner of the elec-
21 tion shall be certified by the Board as the exclusive repre-
22 sentative.

23 (e) A labor organization seeking exclusive recognition
24 shall submit to the Board and to the Department a roster of

1 its officers and representatives, a copy of its constitution and
2 bylaws, and a statement of its objectives.

3 (f) Exclusive recognition shall not be accorded to a labor
4 organization—

5 (1) if the Board determines that the labor organi-
6 zation is subject to corrupt influence or influences op-
7 posed to democratic principles; or

8 (2) in the case of a petition filed under subsection
9 (b)(1)(A), if there is not credible evidence that at least
10 30 percent of the employees wish to be represented for
11 the purpose of collective bargaining by the labor orga-
12 nization seeking exclusive recognition.

13 (g) Nothing in this section shall be construed to prohibit
14 the waiving of hearings by stipulation for the purpose of a
15 consent election in conformity with regulations and rules or
16 decisions of the Board.

17 SEC. 1012. EMPLOYEES REPRESENTED.—The em-
18 ployees of the Department shall constitute a single and sepa-
19 rate worldwide bargaining unit, from which there shall be
20 excluded—

21 (1) employees engaged in personnel work in other
22 than a purely clerical capacity; and

23 (2) employees engaged in criminal or national se-
24 curity investigations or who audit the work of individ-

1 uals to insure that their functions are discharged hon-
2 estly and with integrity.

3 SEC. 1013. REPRESENTATION RIGHTS AND
4 DUTIES.—(a) A labor organization which has been accorded
5 exclusive recognition is the exclusive representative of, and is
6 entitled to act for, and negotiate collective bargaining agree-
7 ments covering, all employees in the unit described in section
8 1012. An exclusive representative is responsible for repre-
9 senting the interests of all employees in that unit without
10 discrimination and without regard to labor organization mem-
11 bership.

12 (b)(1) An exclusive representative shall be given the op-
13 portunity to be represented at—

14 (A) any formal discussion between one or more
15 representatives of the Department and one or more
16 employees in the unit (or their representatives), con-
17 cerning any grievance (as defined in section 1101) or
18 any personnel policy or practice or other general condi-
19 tion of employment; and

20 (B) any examination of an employee by a Depart-
21 ment representative in connection with an investigation
22 if—

23 (i) the employee reasonably believes that the
24 examination may result in disciplinary action
25 against the employee, and

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

5 (c) The Department and the exclusive representative,
6 through appropriate representatives, shall meet and negotiate
7 in good faith for the purposes of arriving at a collective bar-
8 gaining agreement. In addition, the Department and the ex-
9 clusive representative may determine appropriate techniques,
10 consistent with the provisions of section 1010, to assist in
11 any negotiation.

(d) The rights of an exclusive representative under this section shall not preclude an employee from—

(2) exercising grievance or appeal rights established by law, rule, or regulation.

21 (e) The duty of the Department and the exclusive repre-
22 sentative to negotiate in good faith shall include the obliga-
23 tion—

24 (1) to approach the negotiations with a sincere re-
25 solve to reach a collective bargaining agreement;

- 1 (2) to be represented at the negotiations by duly
2 authorized representatives prepared to discuss and ne-
3 gotiate on any condition of employment;
- 4 (3) to meet at reasonable times and convenient
5 places as frequently as may be necessary and to avoid
6 unnecessary delays;
- 7 (4) for the Department to furnish to the exclusive
8 representative, or its authorized representative, upon
9 request and to the extent not prohibited by law, data—
 - 10 (A) which is normally maintained by the De-
11 partment in the regular course of business;
 - 12 (B) which is reasonably available and neces-
13 sary for full and proper discussion, understanding,
14 and negotiation of subjects within the scope of
15 collective bargaining; and
 - 16 (C) which does not constitute guidance,
17 advice, counsel, or training provided for manage-
18 ment officials or confidential employees, relating
19 to collective bargaining;
- 20 (5) to negotiate jointly with respect to conditions
21 of employment applicable to employees in more than
22 one of the agencies authorized to utilize the Foreign
23 Service personnel system, as determined by the heads
24 of such agencies; and

1 (6) if agreement is reached, to execute, upon the
2 request of any party to the negotiation, a written docu-
3 ment embodying the agreed terms, and to take the
4 steps necessary to implement the agreement.

5 (f)(1) An agreement between the Department and the
6 exclusive representative shall be subject to approval by the
7 Secretary.

8 (2) The Secretary shall approve the agreement within
9 30 days after the date of the agreement unless the Secretary
10 finds in writing that the agreement is contrary to applicable
11 law, rule, or regulation.

12 (3) Unless the Secretary disapproves the agreement by
13 making a finding under paragraph (2), the agreement shall
14 take effect after 30 days from its execution and shall be bind-
15 ing on the Department and the exclusive representative sub-
16 ject to all applicable laws, orders, and regulations.

17 (g) The Department shall consult with the exclusive
18 representative with respect to Government-wide or multi-
19 agency matters affecting the rights, benefits, or obligations of
20 individuals employed in agencies not authorized to utilize the
21 Foreign Service personnel system. The exclusive representa-
22 tive shall be informed of any change proposed by the Depart-
23 ment with respect to such matters, and shall be permitted
24 reasonable time to present its views and recommendations
25 regarding such change. The Department shall consider the

1 views and recommendations of the exclusive representative
2 before taking final action on any such change, and shall pro-
3 vide the exclusive representative a written statement of the
4 reasons for taking the final action.

5 SEC. 1014. RESOLUTION OF IMPLEMENTATION DIS-
6 PUTES.—(a) Any dispute between the Department and the
7 exclusive representative concerning the effect, interpretation,
8 or a claim of breach of a collective bargaining agreement
9 shall be resolved through procedures negotiated by the De-
10 partment and the exclusive representative. Any procedures
11 negotiated under this section shall—

12 (1) be fair and simple,
13 (2) provide for expeditious processing, and
14 (3) include provision for appeal to the Foreign
15 Service Grievance Board by either party of any dispute
16 not satisfactorily settled.

17 (b) Either party to an appeal under subsection (a)(3)
18 may file with the Board an exception to the action of the
19 Foreign Service Grievance Board in resolving the implemen-
20 tation dispute. If, upon review, the Board finds that the
21 action is deficient—

22 (1) because it is contrary to any law, rule, or reg-
23 ulation; or

1 (2) on other grounds similar to those applied by
2 Federal courts in private sector labor-management
3 relations;
4 the Board may take such action and make such recommenda-
5 tions concerning the Foreign Service Grievance Board action
6 as it considers necessary, consistent with applicable laws,
7 rules, and regulations.

8 (c) If no exception to a Foreign Service Grievance
9 Board action is filed under subsection (b) within 30 days after
10 such action is communicated to the parties, such action shall
11 become final and binding and shall be implemented by the
12 parties.

13 (d) Resolutions of disputes under this section shall not
14 be subject to judicial review.

15 SEC. 1015. UNFAIR LABOR PRACTICES.—(a) It shall
16 be an unfair labor practice for the Department—

17 (1) to interfere with, restrain, or coerce any em-
18 ployee in the exercise by the employee of any right
19 under this chapter;

20 (2) to encourage or discourage membership in any
21 labor organization by discrimination in connection with
22 hiring, tenure, promotion, or other conditions of
23 employment;

24 (3) to sponsor, control, or otherwise assist any
25 labor organization, other than to furnish upon request

1 customary and routine services and facilities on an im-
2 partial basis to labor organizations having equivalent
3 status;

4 (4) to discipline or otherwise discriminate against
5 an employee because the employee has filed a com-
6 plaint or petition, or has given any information, affida-
7 vit, or testimony under this chapter;

8 (5) to refuse to consult or negotiate in good faith
9 with a labor organization, as required under this chap-
10 ter;

11 (6) to fail or refuse to cooperate in impasse proce-
12 dures and impasse decisions, as required under this
13 chapter;

14 (7) to enforce any rule or regulation (other than a
15 rule or regulation implementing section 2302 of title 5,
16 United States Code) which is in conflict with an appli-
17 cable collective bargaining agreement if the agreement
18 was in effect before the date the rule or regulation was
19 prescribed; or

20 (8) to fail or refuse otherwise to comply with any
21 provision of this chapter.

22 (b) It shall be an unfair labor practice for a labor organi-
23 zation—

- 1 (1) to interfere with, restrain, or coerce any em-
2 ployee in the exercise by the employee of any right
3 under this chapter;
- 4 (2) to cause or attempt to cause the Department
5 to discriminate against any employee in the exercise by
6 the employee of any right under this chapter;
- 7 (3) to coerce, discipline, fine, or attempt to coerce
8 a member of the labor organization as punishment or
9 reprisal, or for the purpose of hindering or impeding
10 the member's work performance or productivity as an
11 employee or the discharge of the member's functions as
12 an employee;
- 13 (4) to discriminate against an employee with
14 regard to the terms and conditions of membership in
15 the labor organization on the basis of race, color,
16 creed, national origin, sex, age, preferential or nonpref-
17 erential civil service status, political affiliation, marital
18 status, or handicapping condition;
- 19 (5) to refuse to consult or negotiate in good faith
20 with the Department, as required under this chapter;
- 21 (6) to fail or refuse to cooperate in impasse proce-
22 dures and impasse decisions, as required under this
23 chapter;
- 24 (7)(A) to call, or participate in, a strike, work
25 stoppage, or slowdown, or to picket the Department in

1 a labor-management dispute (except that any such
2 picketing in the United States which does not interfere
3 with the Department's operations shall not be an
4 unfair labor practice); or

5 (B) to condone any unfair labor practice described
6 in subparagraph (A) by failing to take action to prevent
7 or stop such activity;

8 (8) to deny membership to any employee in the
9 unit represented by the labor organization except—

10 (A) for failure to tender dues uniformly re-
11 quired as a condition of acquiring and retaining
12 membership, or

13 (B) in the exercise of disciplinary procedures
14 consistent with the organization's constitution or
15 bylaws and this chapter; or

16 (9) to fail or refuse otherwise to comply with any
17 provision of this chapter.

18 (c) The expression of any personal view, argument, or
19 opinion, or the making of any statement, which—

20 (1) publicizes the fact of a representational elec-
21 tion and encourages employees to exercise their right
22 to vote in such an election;

23 (2) corrects the record with respect to any false or
24 misleading statement made by any person; or

1 (3) informs employees of the Government's policy
2 relating to labor-management relations and representa-
3 tion,

4 if the expression contains no threat of reprisal or force or
5 promise of benefit and was not made under coercive condi-
6 tions shall not—

7 (A) constitute an unfair labor practice under this
8 chapter, or

9 (B) constitute grounds for the setting aside of any
10 election conducted under this chapter.

11 (d) Issues which can properly be raised under an appeals
12 procedure may not be raised as unfair labor practices prohib-
13 ited under this section. Except for matters wherein, under
14 section 1109(b), an employee has an option of using the
15 grievance procedure under chapter 11 or an appeals proce-
16 dure, issues which can be raised under section 1014 or chap-
17 ter 11 may, in the discretion of the aggrieved party, be raised
18 either under such section or chapter or else raised as an
19 unfair labor practice under this section, but may not be raised
20 both under this section and under section 1014 or chapter 11.

21 SEC. 1016. PREVENTION OF UNFAIR LABOR PRAC-
22 TICES.—(a) If the Department or labor organization is
23 charged by any person with having engaged in or engaging in
24 an unfair labor practice, the General Counsel shall investi-
25 gate the charge and may issue and cause to be served upon

1 the Department or labor organization a complaint. In any
2 case in which the General Counsel does not issue a complaint
3 because the charge fails to state an unfair labor practice, the
4 General Counsel shall provide the person making the charge
5 a written statement of the reasons for not issuing a com-
6 plaint.

7 (b) Any complaint under subsection (a) shall contain a
8 notice—

9 (1) of the charge;
10 (2) that a hearing will be held before the Board
11 (or any member thereof or before an individual em-
12 ployed by the Board and designated for such purpose);
13 and
14 (3) of the time and place fixed for the hearing.

15 (c) The labor organization or Department involved shall
16 have the right to file an answer to the original and any
17 amended complaint and to appear in person or otherwise and
18 give testimony at the time and place fixed in the complaint
19 for the hearing.

20 (d)(1) Except as provided in paragraph (2), no complaint
21 shall be issued based on any alleged unfair labor practice
22 which occurred more than 6 months before the filing of the
23 charge with the Board.

24 (2) If the General Counsel determines that the person
25 filing any charge was prevented from filing the charge during

1 the 6-month period referred to in paragraph (1) by reason
2 of—

3 (A) any failure of the Department or labor organi-
4 zation against which the charge is made to perform a
5 duty owed to the person, or

6 (B) any concealment which prevented discovery of
7 the alleged unfair labor practice during the 6-month
8 period,

9 the General Counsel may issue a complaint based on the
10 charge if the charge was filed during the 6-month period be-
11 ginning on the day of the discovery by the person of the
12 alleged unfair labor practice.

13 (e) The General Counsel may prescribe regulations pro-
14 viding for informal methods by which the alleged unfair labor
15 practice may be resolved prior to the issuance of a complaint.

16 (f) The Board (or any member thereof or any individual
17 employed by the Board and designated for such purpose)
18 shall conduct a hearing on the complaint not earlier than 5
19 days after the date on which the complaint is served. In the
20 discretion of the individual or individuals conducting the
21 hearing, any person involved may be allowed to intervene in
22 the hearing and to present testimony. Any such hearing
23 shall, to the extent practicable, be conducted in accordance
24 with the provisions of subchapter II of chapter 5 of title 5,
25 United States Code, except that the parties shall not be

1 bound by rules of evidence, whether statutory, common law,
2 or adopted by a court. A transcript shall be kept of the hear-
3 ing. After such a hearing the Board, in its discretion, may
4 upon notice receive further evidence or hear argument.

5 (g) If the Board (or any member thereof or any individ-
6 ual employed by the Board and designated for such purpose)
7 determines after any hearing on a complaint under subsection
8 (f) that the preponderance of the evidence received demon-
9 strates that the Department or labor organization named in
10 the complaint has engaged in or is engaging in an unfair
11 labor practice, then the individual or individuals conducting
12 the hearing shall state in writing their findings of fact and
13 shall issue and cause to be served on the Department or labor
14 organization an order—

15 (1) to cease and desist from any such unfair labor
16 practice in which the Department or labor organization
17 is engaged;

18 (2) requiring the parties to renegotiate a collective
19 bargaining agreement in accordance with the order of
20 the Board and requiring that the agreement, as amend-
21 ed, be given retroactive effect;

22 (3) requiring reinstatement of an employee with
23 backpay in accordance with section 5596 of title 5,
24 United States Code; or

1 (4) including any combination of the actions de-
2 scribed in paragraphs (1) through (3) or such other
3 action as will carry out the purpose of this chapter.

4 If any such order requires reinstatement of an employee with
5 backpay, backpay may be required of the Department (as
6 provided in section 5596 of title 5, United States Code) or of
7 the labor organization, as the case may be, which is found to
8 have engaged in the unfair labor practice involved.

9 (h) If the individual or individuals conducting the hear-
10 ing determine that the preponderance of the evidence re-
11 ceived fails to demonstrate that the Department or labor or-
12 ganization named in the complaint has engaged in or is en-
13 gaging in an unfair labor practice, the individual or individ-
14 uals shall state in writing their findings of fact and shall issue
15 an order dismissing the complaint.

16 SEC. 1017. STANDARDS OF CONDUCT FOR LABOR OR-
17 GANIZATIONS.—(a) The Department shall accord recognition
18 only to a labor organization that is free from corrupt influ-
19 ences and influences opposed to basic democratic principles.
20 Except as provided in subsection (b), an organization is not
21 required to prove that it is free from such influences if it is
22 subject to a governing requirement adopted by the organiza-
23 tion or by a national or international labor organization or
24 federation of labor organizations with which it is affiliated, or

1 in which it participates, containing explicit and detailed pro-
2 visions to which it subscribes calling for—

3 (1) the maintenance of democratic procedures and
4 practices, including—

5 (A) provisions for periodic elections to be
6 conducted subject to recognized safeguards, and

7 (B) provisions defining and securing the right
8 of individual members to participate in the affairs
9 of the organization, to receive fair and equal
10 treatment under the governing rules of the organi-
11 zation, and to receive fair process in disciplinary
12 proceedings;

13 (2) the exclusion from office in the organization of
14 persons affiliated with Communist or other totalitarian
15 movements and persons identified with corrupt influ-
16 ences;

17 (3) the prohibition of business or financial interests
18 on the part of organization officers and agents which
19 conflict with their duty to the organization and its
20 members; and

21 (4) the maintenance of fiscal integrity in the con-
22 duct of the affairs of the organization, including provi-
23 sions for accounting and financial controls and regular
24 financial reports or summaries to be made available to
25 members.

1 (b) A labor organization may be required to furnish evi-
2 dence of its freedom from corrupt influences opposed to basic
3 democratic principles if there is reasonable cause to believe
4 that—

5 (1) the organization has been suspended or ex-
6 pelled from, or is subject to other sanction by, a parent
7 labor organization, or federation of organizations with
8 which it has been affiliated, because it has demonstrat-
9 ed an unwillingness or inability to comply with govern-
10 ing requirements comparable in purpose to those re-
11 quired by subsection (a); or

12 (2) the organization is in fact subject to influences
13 that would preclude recognition under this chapter.

14 (c) A labor organization which has or seeks recognition
15 as a representative of employees under this chapter shall file
16 financial and other reports with the Assistant Secretary of
17 Labor for Labor Management Relations, provide for bonding
18 of officials and others employed by the organization, and
19 comply with trusteeship and election standards.

20 (d) The Assistant Secretary of Labor shall prescribe
21 such regulations as are necessary to carry out this section.
22 Such regulations shall conform generally to the principles ap-
23 plied to labor organizations in the private sector. Complaints
24 of violations of this section shall be filed with the Assistant
25 Secretary. In any matter arising under this section, the As-

1 sistant Secretary may require a labor organization to cease
2 and desist from violations of this section and require it to take
3 such actions as the Assistant Secretary considers appropriate
4 to carry out the policies of this section.

5 (e) This chapter does not authorize participation in the
6 management of a labor organization or acting as a repre-
7 sentative of a labor organization by a management official, a
8 confidential employee, or any other employee if the participa-
9 tion or activity would result in a conflict or apparent conflict
10 of interest or would otherwise be incompatible with law or
11 with the official functions of such management official or such
12 employee.

13 (f) If the Board finds that any labor organization has
14 willfully and intentionally violated section 1015(b)(7) by
15 omission or commission with regard to any strike, work stop-
16 page, slowdown, the Board shall—

17 (1) revoke the exclusive recognition status of the
18 labor organization, which shall then immediately cease
19 to be legally entitled and obligated to represent em-
20 ployees in the unit; or

21 (2) take any other appropriate disciplinary action.

22 SEC. 1018. ADMINISTRATIVE PROVISIONS.—(a) If the
23 Department has received from any individual a written as-
24 signment which authorizes the Department to deduct from
25 the salary of that individual amounts for the payment of regu-

1 lar and periodic dues of the exclusive representative, the De-
2 partment shall honor the assignment. Any such assignment
3 shall be made at no cost to the exclusive representative or
4 the individual. Except as provided in subsection (b), any such
5 assignment may not be revoked for a period of one year from
6 its execution.

7 (b) An assignment for deduction of dues shall terminate
8 when—

9 (1) the labor organization ceases to be the exclu-
10 sive representative;

11 (2) the individual ceases to receive a salary from
12 the Department as a member of the Service; or

13 (3) the individual is suspended or expelled from
14 membership in the exclusive representative.

15 (c) During any period when no labor organization is cer-
16 tified as the exclusive representative of employees in the De-
17 partment, the Department shall have the duty to negotiate
18 with a labor organization which has filed a petition under
19 section 1011(b)(1)(A) alleging that 10 percent of the employ-
20 ees in the Department have membership in the organization
21 if the Board has determined that the petition is valid. Negoti-
22 ations under this subsection shall be concerned solely with
23 the deduction of dues of the labor organization from the
24 salary of the individuals who are members of the labor orga-
25 nization and who make a voluntary allotment for that pur-

1 pose. Any agreement between the Department and a labor
2 organization under this subsection shall terminate upon the
3 certification of an exclusive representative of any employees
4 to whom the agreement applies.

5 (d) The following provisions shall apply to the use of
6 official time:

7 (1) Any employee representing an exclusive repre-
8 sentative in the negotiation of a collective bargaining
9 agreement under this chapter shall be authorized offi-
10 cial time for such purposes, including attendance at im-
11 passe proceedings, during the time the employee other-
12 wise would be in a duty status. The number of employ-
13 ees for whom official time is authorized under this
14 paragraph shall not exceed the number of individuals
15 designated as representing the Department for such
16 purposes.

17 (2) Any activities performed by any employee re-
18 lating to the internal business of the labor organization,
19 including the solicitation of membership, elections of
20 labor organization officials, and collection of dues, shall
21 be performed during the time the employee is in a non-
22 duty status.

23 (3) Except as provided in paragraph (1), the
24 Board shall determine whether any employee partici-
25 pating for, or on behalf of, a labor organization in any

1 phase of proceedings before the Board shall be author-
2 ized official time for such purpose during the time the
3 employee would otherwise be in a duty status.

4 (4) Except as provided in paragraphs (1), (2), and
5 (3), any employee representing an exclusive repre-
6 sentative, or engaged in any other matter covered by
7 this chapter, shall be granted official time in any
8 amount the Department and the exclusive representa-
9 tive agree to be reasonable, necessary, and in the
10 public interest.

11 CHAPTER 11—GRIEVANCES

12 SEC. 1101. DEFINITION OF GRIEVANCE.—(a)(1)
13 Except as provided in subsection (b), for purposes of this
14 chapter, the term “grievance” means any act, omission, or
15 condition subject to the control of the Secretary which is
16 alleged to deprive a member of the Service who is a citizen of
17 the United States of a right or benefit authorized by law or
18 regulation or which is otherwise a source of concern or dis-
19 satisfaction to the member, including—

20 (A) separation of the member allegedly contrary
21 to laws or regulations, or predicated upon alleged inac-
22 curacy, omission, error, or falsely prejudicial character
23 of information in any part of the official personnel
24 record of the member;

1 (B) other alleged violation, misinterpretation, or
2 misapplication of applicable laws, regulations, or pub-
3 lished policy affecting the terms and conditions of the
4 employment or career status of the member;

5 (C) allegedly wrongful disciplinary action against
6 the member;

7 (D) dissatisfaction with respect to the working
8 environment of the member;

9 (E) alleged inaccuracy, omission, error, or falsely
10 prejudicial character of information in the official per-
11 sonnel record of the member which is or could be prej-
12 udicial to the member;

13 (F) action alleged to be in the nature of reprisal
14 or other interference with freedom of action in connec-
15 tion with participation by the member in procedures
16 under this chapter; and

17 (G) alleged denial of an allowance, premium pay,
18 or other financial benefit to which the member claims
19 entitlement under applicable laws or regulations.

20 (2) The scope of grievances described in paragraph (1)
21 may be modified by written agreement between the Depart-
22 ment and the labor organization accorded recognition as the
23 exclusive representative under chapter 10 (hereinafter in this
24 chapter referred to as the "exclusive representative").

1 (b) For purposes of this chapter, the term "grievance"
2 does not include—

3 (1) an individual assignment of a member under
4 chapter 5, other than an assignment alleged to be con-
5 trary to law or regulation;

6 (2) the judgment of a selection board established
7 under section 602, a tenure board established under
8 section 306(b), or any other equivalent body estab-
9 lished by laws or regulations which similarly evaluates
10 the performance of members of the Service on a com-
11 parative basis;

12 (3) the expiration of a limited appointment, the
13 termination of a limited appointment under section
14 611, or the denial of a limited career extension or of a
15 renewal of a limited career extension under section
16 607(b); or

17 (4) any complaint or appeal where a specific stat-
18 utory hearing procedure exists, except as provided in
19 section 1109(b).

20 (c) This chapter applies only with respect to the Depart-
21 ment of State, the International Communication Agency, the
22 United States International Development Cooperation
23 Agency, the Department of Agriculture, and the Department
24 of Commerce.

1 SEC. 1102. GRIEVANCES CONCERNING FORMER MEM-
2 BERS.—Within the time limitations of section 1104, a former
3 member of the Service or the surviving spouse (or, if none,
4 another member of the family) of a deceased member or
5 former member of the Service may file a grievance under this
6 chapter only with respect to allegations described in section
7 1101(a)(1)(G).

8 SEC. 1103. FREEDOM OF ACTION.—(a) Any individual
9 filing a grievance under this chapter (hereinafter in this chap-
10 ter referred to as the "grievant"), and any witness, labor
11 organization, or other person involved in a grievance pro-
12 ceeding, shall be free from any restraint, interference,
13 coercion, harassment, discrimination, or reprisal in those pro-
14 ceedings or by virtue of them.

15 (b)(1) Except with respect to grievances described in
16 section 1101(a)(1)(A), a grievant who is a member of a bar-
17 gaining unit represented by an exclusive representative shall
18 be represented at every stage of the proceedings only if rep-
19 resented by that exclusive representative. Such a grievant
20 has the right to represent himself or herself under depart-
21 mental procedures with respect to a grievance; however, the
22 exclusive representative shall have the right to be present
23 during the grievance proceedings.

24 (2) Any grievant who is not a member of a bargaining
25 unit, or whose grievance is described in section

1 1101(a)(1)(A), has the right at every stage of the proceedings
2 to representation of his or her own choosing.

3 (3) The grievant, and any representative of the grievant
4 who is a member of the Service or employee of the Depart-
5 ment, shall be granted reasonable periods of administrative
6 leave to prepare and present the grievance and to attend pro-
7 ceedings under this chapter.

8 (c) Any witness who is a member of the Service or
9 employee of the Department shall be granted reasonable pe-
10 riods of administrative leave to appear and testify at any pro-
11 ceedings under this chapter.

12 (d)(1) No record of—

13 (A) a determination by the Secretary to reject a
14 recommendation of the Foreign Service Grievance
15 Board,

16 (B) a finding by the Grievance Board against the
17 grievant, or

18 (C) the fact that a grievance proceeding is pend-
19 ing or has been held,

20 shall be entered in the personnel records of the grievant
21 (except by order of the Grievance Board as a remedy for the
22 grievance) or those of any other individual connected with
23 the grievance.

1 (2) The Department shall maintain records pertaining to
2 grievances under appropriate safeguards to preserve
3 confidentiality.

4 (3) The Foreign Service Grievance Board may enforce
5 compliance with the requirements of paragraphs (1) and (2).

6 (e) The Department will use its best endeavors to expe-
7 dite security clearance procedures whenever necessary to
8 assure a fair and prompt resolution of a grievance.

9 SEC. 1104. TIME LIMITATIONS.—(a) A grievance is
10 forever barred unless it is filed with the Department within a
11 period of 3 years after the occurrence or occurrences giving
12 rise to the grievance or such shorter period as may be agreed
13 to by the Department and the exclusive representative.
14 There shall be excluded from the computation of any such
15 period any time during which, as determined by the Foreign
16 Service Grievance Board, the grievant was unaware of the
17 grounds for the grievance and could not have discovered such
18 grounds through reasonable diligence.

19 (b) If a grievance is not resolved under Department pro-
20 cedures (which have been negotiated with the exclusive rep-
21 resentative, if any) within ninety days after it is filed with the
22 Department, the exclusive representative (on behalf of a
23 grievant who is a member of the bargaining unit) or a griev-
24 ant who is not a member of such bargaining unit or whose
25 grievance is described in section 1101(a)(1)(A) shall be enti-

1 tled to file a grievance with the Foreign Service Grievance
2 Board for its consideration and resolution.

3 SEC. 1105. FOREIGN SERVICE GRIEVANCE BOARD.—

4 (a) There is established the Foreign Service Grievance Board
5 (hereinafter in this chapter referred to as the "Board"). The
6 Board shall consist of no fewer than 5 members who shall be
7 independent, distinguished citizens of the United States, well
8 known for their integrity, who are not employees of the De-
9 partment or members of the Service.

10 (b) The Chairperson and other members of the Board
11 shall be appointed by the Secretary of State, from nominees
12 approved in writing by the agencies to which this chapter
13 applies and the exclusive representative (if any) for each such
14 agency. Each member of the Board shall be appointed for a
15 term of 2 years, subject to renewal with the same written
16 approvals required for initial appointment. In the event of a
17 vacancy on the Board, an appointment for the unexpired
18 term may be made by the Secretary of State in accordance
19 with the procedures specified in this section. In the event of
20 inability to obtain agreement on a nominee, each such agency
21 and exclusive representative shall select 2 nominees and
22 shall, in an order determined by lot, in turn strike a name
23 from a list of such nominees until only one name remains.
24 For purposes of this section, the nominee whose name re-

1 mains shall be deemed to be approved in writing by each
2 such agency head and exclusive representative.

3 (c) Members of the Board who are not employees of the
4 Government shall be paid for each day they are performing
5 their duties (including traveltme) at the daily equivalent of
6 the maximum rate payable for grade GS-18 of the General
7 Schedule under section 5332 of title 5, United States Code.

8 (d) The Secretary of State may, upon written notice,
9 remove a Board member for corruption, neglect of duty, mal-
10 feasance, or demonstrated incapacity to perform his or her
11 functions, established at a hearing (unless the right to a hear-
12 ing is waived in writing by the Board member).

13 (e) The Board may obtain facilities, services, and sup-
14 plies through the general administrative services of the De-
15 partment of State. All expenses of the Board, including nec-
16 essary costs of the travel and travel-related expenses of a
17 grievant, shall be paid out of funds appropriated to the De-
18 partment for obligation and expenditure by the Board. At the
19 request of the Board, employees of the Department and
20 members of the Service may be assigned as staff employees
21 for the Board. Within the limits of appropriated funds, the
22 Board may appoint and fix the compensation of such other
23 employees as the Board considers necessary to carry out its
24 functions. The individuals so appointed or assigned shall be
25 responsible solely to the Board, and the Board shall prepare

1 the performance evaluation reports for such individuals. The
2 records of the Board shall be maintained by the Board and
3 shall be separate from all other records of the Department of
4 State under appropriate safeguards to preserve confidential-
5 ity.

6 SEC. 1106. BOARD PROCEDURES.—The Board may
7 adopt regulations concerning its organization and procedures.
8 Such regulations shall include provision for the following:

9 (1) The Board shall conduct a hearing at the
10 request of a grievant in any case which involves—

11 (A) disciplinary action or the retirement of a
12 grievant from the Service under section 607 or
13 608, or

14 (B) issues which, in the judgment of the
15 Board, can best be resolved by a hearing or pres-
16 entation of oral argument.

17 (2) The grievant, the representatives of the griev-
18 ant, the exclusive representative (if the grievant is a
19 member of the bargaining unit represented by the ex-
20 clusive representative), and the representatives of the
21 Department are entitled to be present at the hearing.
22 The Board may, after considering the views of the par-
23 ties and any other individuals connected with the
24 grievance, decide that a hearing should be open to
25 others. Testimony at a hearing shall be given under

1 oath, which any Board member or individual designat-
2 ed by the Board shall have authority to administer.

3 (3) Each party shall be entitled to examine and
4 cross-examine witnesses at the hearing or by deposi-
5 tion and to serve interrogatories upon another party
6 and have such interrogatories answered by the other
7 party unless the Board finds such interrogatory irrele-
8 vant, immaterial, or unduly repetitive. Upon request of
9 the Board, or upon a request of the grievant deemed
10 relevant and material by the Board, an agency shall
11 promptly make available at the hearing or by deposi-
12 tion any witness under its control, supervision, or re-
13 sponsibility, except that if the Board determines that
14 the presence of such witness at the hearing is required
15 for just resolution of the grievance, then the witness
16 shall be made available at the hearing, with necessary
17 costs and travel expenses paid by the Department.

18 (4) During any hearing held by the Board, any
19 oral or documentary evidence may be received, but the
20 Board shall exclude any irrelevant, immaterial, or
21 unduly repetitious evidence, as determined under sec-
22 tion 556 of title 5, United States Code.

23 (5) A verbatim transcript shall be made of any
24 hearing and shall be part of the record of proceedings.

1 (6) In those grievances in which the Board does
2 not hold a hearing, the Board shall afford to each party
3 the opportunity to review and to supplement, by writ-
4 ten submissions, the record of proceedings prior to the
5 decision by the Board. The decision of the Board shall
6 be based exclusively on the record of proceedings.

7 (7) The Board may act by or through panels or
8 individual members designated by the Chairperson,
9 except that hearings within the continental United
10 States shall be held by panels of at least three mem-
11 bers unless the parties agree otherwise. References in
12 this chapter to the Board shall be considered to be ref-
13 erences to a panel or member of the Board where ap-
14 propriate. All members of the Board shall act as im-
15 partial individuals in considering grievances.

16 (8) If the Board determines that the Department
17 is considering the involuntary separation of the griev-
18 ant, disciplinary action against the grievant, or recov-
19 ery from the grievant of alleged overpayment of salary,
20 expenses, or allowances, which is related to a griev-
21 ance pending before the Board and that such action
22 should be suspended, the Department shall suspend
23 such action until the Board has ruled upon the griev-
24 ance. Notwithstanding such suspension of action, the
25 head of the agency concerned or a chief of mission or

1 principal officer may exclude the grievant from official
2 premises or from the performance of specified functions
3 when such exclusion is determined in writing to be es-
4 sential to the functioning of the post or office to which
5 the grievant is assigned.

6 (9) The Board may reconsider any decision upon
7 presentation of newly discovered or previously unavail-
8 able material evidence.

9 SEC. 1107. BOARD DECISIONS.—(a) Upon completion
10 of its proceedings, the Board shall expeditiously decide the
11 grievance on the basis of the record of proceedings. In each
12 case the decision of the Board shall be in writing, and shall
13 include findings of fact and a statement of the reasons for the
14 decision of the Board.

15 (b) If the Board finds that the grievance is meritorious,
16 the Board shall have the authority to direct the Depart-
17 ment—

18 (1) to correct any official personnel record relating
19 to the grievant which the Board finds to be inaccurate
20 or erroneous, to have an omission, or to contain infor-
21 mation of a falsely prejudicial character;

22 (2) to reverse a decision denying the grievant
23 compensation or any other perquisite of employment
24 authorized by laws or regulations when the Board finds

1 that such decision was arbitrary, capricious, or con-
2 trary to laws or regulations;

3 (3) to retain in the Service a member whose sepa-
4 ration would be in consequence of the matter by which
5 the member is aggrieved;

6 (4) to reinstate the grievant, and to grant the
7 grievant back pay in accordance with section
8 5596(b)(1) of title 5, United States Code;

9 (5) to pay reasonable attorney fees to the grievant
10 to the same extent and in the same manner as such
11 fees may be required by the Merit Systems Protection
12 Board under section 7701(g) of title 5, United States
13 Code; and

14 (6) to take such other remedial action as may be
15 appropriate under procedures agreed to by the Depart-
16 ment and the exclusive representative (if any).

17 (c) Except as provided in subsection (d), decisions of the
18 Board under this chapter shall be final, subject only to judi-
19 cial review as provided in section 1110.

20 (d) If the Board finds that the grievance is meritorious
21 and that remedial action should be taken that relates directly
22 to promotion or assignment of the grievant or to other
23 remedial action not otherwise provided for in this section, or
24 if the Board finds that the evidence before it warrants disci-
25 plinary action against any employee of the Department or

1 member of the Service, it shall make an appropriate recom-
2 mendation to the Secretary. The Secretary shall make a
3 written decision on the recommendation of the Board within
4 30 days after receiving the recommendation. The Secretary
5 shall implement the recommendation of the Board except to
6 the extent that, in a decision made within that 30-day period,
7 the Secretary rejects the recommendation in whole or in part
8 on the basis of a determination that implementation of the
9 recommendation would be contrary to law or would adverse-
10 ly affect the foreign policy or national security of the United
11 States. If the Secretary rejects the recommendation in whole
12 or in part, the decision shall specify the reasons for such
13 action. Pending the decision of the Secretary, there shall be
14 no ex parte communication concerning the grievance between
15 the Secretary and any person involved in the proceedings of
16 the Board. The Secretary shall, however, have access to the
17 entire record of the proceedings of the Board.

18 SEC. 1108. ACCESS TO RECORDS.—(a) If a grievant is
19 denied access to any agency record prior to or during the
20 consideration of the grievance by the Department, the griev-
21 ant may raise such denial before the Board in connection
22 with the grievance.

23 (b) In considering a grievance, the Board shall have
24 access to any agency record as follows:

1 (1)(A) The Board shall request access to any
2 agency record which the grievant requests to substantiate
3 the grievance if the Board determines that such
4 record may be relevant and material to the grievance.

5 (B) The Board may request access to any other
6 agency record which the Board determines may be relevant
7 and material to the grievance.

8 (2) Any agency shall make available to the Board
9 any agency record requested under paragraph (1)
10 unless the head or deputy head of such agency personally
11 certifies in writing to the Board that disclosure of
12 the record to the Board and the grievant would adversely
13 affect the foreign policy or national security of
14 the United States or that such disclosure is prohibited
15 by law. If such a certification is made with respect to
16 any record, the agency shall supply to the Board a
17 summary or extract of such record unless the reasons
18 specified in the preceding sentence preclude such a
19 summary or extract.

20 (c) If the Board determines that an agency record, or a
21 summary or extract of a record, made available to the Board
22 under subsection (b) is relevant and material to the grievance,
23 the agency concerned shall make such record, summary, or
24 extract, as the case may be, available to the grievant.

1 (d) In considering a grievance, the Board may take into
2 account the fact that the grievant or the Board was denied
3 access to an agency record which the Board determines is or
4 may be relevant and material to the grievance.

5 (e) The grievant in any case decided by the Board shall
6 have access to the record of the proceedings and the decision
7 of the Board.

8 SEC. 1109. RELATIONSHIP TO OTHER REMEDIES.—

9 (a) A grievant may not file a grievance with the Board if the
10 grievant has formally requested, prior to filing a grievance,
11 that the matter or matters which are the basis of the griev-
12 ance be considered or resolved and relief be provided under
13 another provision of law, regulation, or Executive order,
14 other than under section 1206 of title 5, United States Code,
15 and the matter has been carried to final decision under such
16 provision on its merits or is still under consideration.

17 (b) If a grievant is not prohibited from filing a grievance
18 under subsection (a), the grievant may file with the Board a
19 grievance which is also eligible for consideration, resolution,
20 and relief under chapter 12 of title 5, United States Code, or
21 a regulation or Executive order other than under this chap-
22 ter. An election of remedies under this section shall be final
23 upon the acceptance of jurisdiction by the Board.

24 SEC. 1110. JUDICIAL REVIEW.—Any aggrieved party
25 may obtain judicial review of a final action of the Secretary

1 or the Board on any grievance in the district courts of the
2 United States in accordance with the standards set forth in
3 chapter 7 of title 5, United States Code. Section 706 of
4 title 5, United States Code, shall apply without limitation or
5 exception.

6 **TITLE II—TRANSITION, AMENDMENTS TO OTHER
7 LAWS, AND MISCELLANEOUS PROVISIONS**

8 **CHAPTER 1—TRANSITION**

9 **SEC. 2101. PAY AND BENEFITS PENDING CONVER-**
10 **SION.**—Except as provided in section 2104(b), until
11 converted under the provisions of this chapter, individuals
12 who are in the Foreign Service immediately before the effec-
13 tive date of this Act and who could be converted under sec-
14 tion 2102 or 2103 shall be treated for purposes of salary,
15 allowances, and all other matters as if they had been con-
16 verted under section 2102 or 2103, as the case may be, on
17 the effective date of this Act, except that any adjustment of
18 salary under this section shall take effect on the first day of
19 the first pay period which begins on or after—

20 (1) such date (on or after the date of enactment of
21 this Act and before the effective date of this Act) as
22 the President may specify by Executive order for pur-
23 poses of this paragraph, or

24 (2) if the President does not specify a date under
25 paragraph (1), the effective date of this Act.

1 SEC. 2102. CONVERSION TO THE FOREIGN SERVICE

2 SCHEDULE.—(a) Not later than 120 days after the effective
3 date of this Act, the Secretary shall, in accordance with sec-
4 tion 2106, convert to the appropriate class in the Foreign
5 Service Schedule established under section 403 of this Act
6 those individuals in the Foreign Service who are serving im-
7 mediately before the effective date of this Act under appoint-
8 ments at or below class 3 of the schedule established under
9 section 412 or 414 of the Foreign Service Act of 1946, or at
10 any class in the schedule established under section 415 of
11 such Act, as—

12 (1) Foreign Service officers, or

13 (2) Foreign Service Reserve officers with limited
14 or unlimited tenure, and Foreign Service staff officers
15 or employees, who the Secretary determines are avail-
16 able for worldwide assignment.

17 (b) Not later than 3 years after the effective date of this
18 Act, Foreign Service Reserve officers and staff officers and
19 employees who the Secretary determines under subsection
20 (a)(2) are not available for worldwide assignment shall also be
21 converted, in accordance with section 2106, to the appropri-
22 ate class in the Foreign Service Schedule established under
23 section 403 if—

24 (1) the Secretary certifies that there is a need for
25 their services in the Foreign Service; and

1 (2) they agree in writing to accept availability for
2 worldwide assignment as a condition of continued em-
3 ployment.

4 SEC. 2103. CONVERSION TO THE SENIOR FOREIGN
5 SERVICE.—(a) Foreign Service officers and Foreign Service
6 Reserve officers with limited or unlimited tenure who, imme-
7 diately before the effective date of this Act, are serving under
8 appointments at class 2 or a higher class of the schedule
9 established under section 412 or 414 of the Foreign Service
10 Act of 1946 may at any time within 120 days after such date
11 submit to the Secretary a written request for appointment to
12 the Senior Foreign Service.

13 (b) Except as provided in subsection (d), if a request is
14 submitted under subsection (a) by a Foreign Service Reserve
15 officer with limited tenure, the Secretary shall grant to such
16 officer a limited appointment to the Senior Foreign Service in
17 the appropriate class established under section 402 of this
18 Act.

19 (c) If a request is submitted under subsection (a) by a
20 Foreign Service officer or, except as provided in subsection
21 (d), a Foreign Service Reserve officer with unlimited tenure,
22 the Secretary shall recommend to the President a career ap-
23 pointment of such officer, by and with the advice and consent
24 of the Senate, to the Senior Foreign Service in the appropri-
25 ate class established under section 402 of this Act.

1 (d) If the Secretary determines that a Foreign Service
2 Reserve officer with limited or unlimited tenure who submits
3 a request under subsection (a) is not available for worldwide
4 assignment, an appointment under subsection (b) or a recom-
5 mendation for appointment under subsection (c) shall be made
6 only if—

7 (1) the Secretary certifies that there is a need for
8 the services of such officer in the Senior Foreign Serv-
9 ice; and
10 (2) such officer agrees in writing to accept avail-
11 ability for worldwide assignment as a condition of con-
12 tinued employment.

13 (e) If a Foreign Service officer or a Foreign Service
14 Reserve officer who is eligible to submit a request under sub-
15 section (a) submits a written request for appointment to the
16 Senior Foreign Service to the Secretary more than 120 days
17 after the effective date of this Act and before the end of the
18 3-year period beginning on such effective date, the Secretary
19 (in the case of a Foreign Service Reserve officer with limited
20 tenure) may grant a limited appointment to, or (in the case of
21 a Foreign Service officer or Foreign Service Reserve officer
22 with unlimited tenure) may recommend to the President a
23 career appointment of, the requesting officer to the appropri-
24 ate class established under section 402 of this Act, subject to
25 the conditions specified in subsection (d) and such other con-

1 ditions as the Secretary may prescribe consistent with the
2 provisions of chapter 6 of title I of this Act relating to promo-
3 tion into the Senior Foreign Service.

4 (f) Any officer of the Foreign Service who is eligible to
5 submit a request under subsection (a) and—

6 (1) who does not submit a request under subsec-
7 tion (a), or

8 (2) who submits such a request more than 120
9 days after the effective date of this Act and is not ap-
10 pointed to the Senior Foreign Service for any reason
11 other than failure to meet the conditions specified in
12 subsection (d),

13 may not remain in the Foreign Service for more than 3 years
14 after the effective date of this Act. During such period, the
15 officer shall be subject to the provisions of title I of this Act
16 applicable to members of the Senior Foreign Service, except
17 that such officer shall not be eligible to compete for perform-
18 ance pay under section 405, and shall not be eligible for a
19 limited career extension as described in section 607(b). Upon
20 separation from the Service, any such officer who is a partici-
21 pant in the Foreign Service Retirement and Disability
22 System shall be entitled to retirement benefits determined in
23 accordance with chapter 8 of title I of this Act.

24 SEC. 2104. CONVERSION FROM THE FOREIGN SERV-
25 ICE.—(a) In the case of any individual in the Foreign Service

1 who, immediately before the effective date of this Act, is
2 serving under an appointment described in section 2102(a) or
3 2103(a) and who is not converted under section 2102 or sec-
4 tion 2103 because such individual does not meet the condi-
5 tions specified in section 2102(b) or 2103(d), the Secretary
6 shall, not later than 3 years after the effective date of this
7 Act, provide that—

8 (1) the position such individual holds shall be sub-
9 ject to chapter 51 and subchapter III of chapter 53 of
10 title 5, United States Code;

11 (2) such individual shall be appointed to such posi-
12 tion without competitive examination; and

13 (3) such position shall be considered to be in the
14 competitive service so long as the individual continues
15 to hold that position;

16 except that any such individual who meets the eligibility re-
17 quirements for the Senior Executive Service and who elects
18 to join that Service shall be converted by the Secretary to the
19 Senior Executive Service in the appropriate rate of basic pay
20 established under section 5382 of title 5, United States Code.

21 (b)(1) In the case of individuals in the Foreign Service in
22 the International Communication Agency who immediately
23 before the date of enactment of this Act are covered by a
24 collective bargaining agreement between the Agency and the
25 exclusive representative of those individuals, the 3-year

1 period referred to in subsection (a) shall begin on July 1,
2 1981. Prior to that date, any individual in the Foreign Serv-
3 ice exempted from conversion by this subsection may elect to
4 remain in the Foreign Service and, notwithstanding any
5 other provision of law, the status, promotion, class, and
6 tenure of such individuals shall continue to be governed by
7 the Foreign Service Act of 1946 and Public Law 90-494 (as
8 those Acts were in effect immediately before the effective
9 date of this Act). This Act (except sections 402, 403, 404,
10 and 405) shall also apply to such individuals, and such indi-
11 viduals shall be considered members of the Foreign Service
12 for purposes of sections 103, 406, 501, 502, 503, 504, 610,
13 and 803 of this Act.

14 (2) The President shall prescribe salary rates for the
15 individuals in the Foreign Service who are temporarily
16 excepted from conversion under this subsection in accordance
17 with the salary classes established under sections 414 and
18 415 of the Foreign Service Act of 1946. Salary rates for
19 such individuals shall be adjusted at the same time and to the
20 same extent as rates of basic pay are adjusted for the Gen-
21 eral Schedule.

22 SEC. 2105. CONVERSION OF CERTAIN POSITIONS IN
23 THE DEPARTMENT OF AGRICULTURE.—(a) Not later than
24 15 days after the effective date of this Act, the Secretary of
25 Agriculture shall—

1 (1) designate and classify under section 501 of
2 this Act those positions in the Foreign Agricultural
3 Service under the General Schedule described in sec-
4 tion 5332 of title 5, United States Code, which the
5 Secretary of Agriculture determines are to be occupied
6 by career members of the Foreign Service, and

7 (2) provide written notice to individuals holding
8 those positions of such designation and classification of
9 the personnel category under section 103 which will
10 apply to such individual.

11 (b) Each employee serving in a position at the time it is
12 designated under subsection (a) shall, not later than 120 days
13 after notice of such designation, elect—

14 (1) to accept conversion to the Foreign Service, in
15 which case such employee shall be converted in ac-
16 cordance with the provisions of subsection (c); or

17 (2) to decline conversion to the Foreign Service
18 and have the provisions of subsection (d) apply.

19 (c)(1) The Secretary of Agriculture shall recommend to
20 the President for appointment to the appropriate class (as
21 determined under paragraph (2)), by and with the advice and
22 consent of the Senate, those employees who elect conversion
23 under subsection (a)(1).

24 (2) The Secretary of Agriculture shall appoint as For-
25 eign Service personnel those employees who elect to accept

1 conversion and who are not eligible for appointment under
2 paragraph (1).

3 (d) Any employee who declines conversion under sub-
4 section (b)(2) shall for so long as that employee continues to
5 hold the designated position be deemed to be a member of the
6 Foreign Service for purposes of allowances, differentials, and
7 similar benefits (as determined by the Secretary of
8 Agriculture).

9 SEC. 2106. PRESERVATION OF STATUS AND BENE-
10 FITS.—(a)(1) Subject to paragraph (2), every individual who
11 is converted under this chapter shall be converted to the class
12 or grade and pay rate that most closely corresponds to the
13 class or grade and step at which the individual was serving
14 immediately before conversion. No conversion under this
15 chapter shall cause any individual to incur a reduction in his
16 or her class, grade, or basic rate of salary.

17 (2)(A) Conversion under section 2102 of any individual
18 in the Foreign Service to the Foreign Service Schedule shall
19 in each case be to a class determined on the basis of the rank
20 held immediately before the effective date of this Act, in
21 accordance with the following table:

If the rank held immediately before the effective date is:	The individual shall be converted to the following class:
FSO-3, FSR-3, FSRU-3, or FSS-1	FS-1
FSO-4, FSR-4, FSRU-4, or FSS-2	FS-2
FSO-5, FSR-5, FSRU-5, or FSS-3	FS-3
FSO-6, FSR-6, FSRU-6, or FSS-4	FS-5
FSO-7, FSR-7, FSRU-7, or FSS-5	FS-6
FSO-8, FSR-8, FSRU-8, or FSS-6	FS-7

If the rank held immediately before the effective date is:	The individual shall be converted to the following class:
FSS-7	FS-8
FSS-8	FS-9
FSS-9	FS-10
FSS-10	FS-10

1 (B) Each individual converted to a class under subparagraph (A) shall be placed in the salary step in that class
2 which is the numerical equivalent of the step that individual
3 was in immediately before such conversion unless the individual
4 is entitled to be in a higher step under the provisions of
5 paragraph (1).

6 (C) Not later than 6 months after the effective date of
7 this Act, each career member of the Foreign Service holding
8 the rank of FSO-6, FSR-6, FSRU-6, or FSS-4 immedi-
9 ately before such effective date shall be evaluated and consid-
10 ered for promotion to salary class FS-4 by a Foreign Service
11 selection board in accordance with chapter 6 of title I of this
12 Act.

13 (3) An individual converted under section 2104 to a po-
14 sition in the competitive service shall be entitled to have that
15 position, or any other position to which the individual is sub-
16 sequently assigned (other than at the request of the indi-
17 vidual), be considered for all purposes as at the grade which
18 corresponds to the class in which the individual served imme-
19 diately before conversion so long as the individual continues
20 to hold that position.

1 (b)(1) Any participant in the Foreign Service Retirement
2 and Disability System who would, but for this paragraph,
3 participate in the Civil Service Retirement and Disability
4 System by virtue of conversion under this chapter shall
5 remain a participant in the Foreign Service Retirement and
6 Disability System for 120 days after participation in the For-
7 eign Service Retirement and Disability System would other-
8 wise cease. During such 120-day period, the individual may
9 elect in writing to continue to participate in the Foreign
10 Service Retirement and Disability System instead of the Civil
11 Service Retirement and Disability System so long as he or
12 she is employed in an agency which is authorized to utilize
13 the Foreign Service personnel system. If such an election is
14 not made, the individual shall then be covered by the Civil
15 Service Retirement and Disability System and contributions
16 made by the participant to the Foreign Service Retirement
17 and Disability Fund shall be transferred to the Civil Service
18 Retirement and Disability Fund.

19 (2) Any Foreign Service Reserve officer with limited
20 tenure who has reemployment rights to a personnel category
21 in the Foreign Service in which he or she would be a partici-
22 pant in the Foreign Service Retirement and Disability
23 System and who would, but for this paragraph, continue to
24 participate in the Civil Service Retirement and Disability
25 System by virtue of conversion under section 2104 may

1 elect, during the 120-day period beginning on the date of
2 such conversion, to become a participant in the Foreign Serv-
3 ice Retirement and Disability System so long as he or she is
4 employed in an agency which is authorized to utilize the For-
5 eign Service personnel system. If such an election is made,
6 the individual shall be transferred to the Foreign Service Re-
7 tirement and Disability System and contributions made by
8 that individual to the Civil Service Retirement and Disability
9 Fund shall be transferred to the Foreign Service Retirement
10 and Disability Fund.

11 (c) Individuals who are converted under this chapter
12 shall be converted to the type of appointment which corre-
13 sponds most closely in tenure to the type of appointment
14 under which they were serving immediately prior to such
15 conversion, except that this chapter shall not operate to
16 extend the duration of any limited appointment or previously
17 applicable time in class.

18 (d) Any individual who on the effective date of this Act
19 is serving—

20 (1) under an appointment in the Foreign Service,
21 or
22 (2) in any other office or position continued by
23 this Act,

1 may continue to serve under such appointment, subject to the
2 provisions of this Act, and need not be reappointed by virtue
3 of the enactment of this Act.

4 (e) Any individual in the Foreign Service—

5 (1) who is serving under a career appointment on
6 the date of enactment of this Act, and

7 (2) who was not subject to section 633(a)(2) of the
8 Foreign Service Act of 1946 immediately before the
9 effective date of this Act,

10 may not be retired under section 608 of this Act until 10
11 years after the effective date of this Act or when such indi-
12 vidual first becomes eligible for an immediate annuity under
13 chapter 8 of title I of this Act, whichever occurs first.

14 SEC. 2107. REGULATIONS.—Under the direction of the
15 President, the Secretary shall prescribe regulations for the
16 implementation of this chapter.

17 SEC. 2108. AUTHORITY OF OTHER AGENCIES.—The
18 heads of agencies other than the Department of State which
19 utilize the Foreign Service personnel system shall perform
20 functions under this chapter in accordance with regulations
21 prescribed by the Secretary of State under section 2107.

22 Such agency heads shall consult with the Secretary of State
23 in the exercise of such functions.

1 CHAPTER 2—AMENDMENTS RELATING TO FOREIGN
2 AFFAIRS AGENCIES

3 SEC. 2201. BASIC AUTHORITIES OF THE DEPART-
4 MENT OF STATE.—(a) The Act entitled "An Act to provide
5 certain basic authority for the Department of State", ap-
6 proved August 1, 1956, is amended by adding at the end
7 thereof the following new sections:

8 "SEC. 25. (a) The Secretary of State may accept on
9 behalf of the United States gifts made unconditionally by will
10 or otherwise for the benefit of the Department of State (in-
11 cluding the Foreign Service) or for the carrying out of any of
12 its functions. Conditional gifts may be so accepted at the dis-
13 cretion of the Secretary, and the principal of and income from
14 any such conditional gift shall be held, invested, reinvested,
15 and used in accordance with its conditions, except that no gift
16 shall be accepted which is conditioned upon any expenditure
17 which will not be met by the gift or the income from the gift
18 unless such expenditure has been approved by Act of
19 Congress.

20 "(b) Any unconditional gift of money accepted under
21 subsection (a), the income from any gift property held under
22 subsection (c) or (d) (except income made available for ex-
23 penditure under subsection (d)(2)), the net proceeds from the
24 liquidation of gift property under subsection (c) or (d), and the
25 proceeds of insurance on any gift property which are not used

1 for its restoration, shall be deposited in the Treasury of the
2 United States. Such funds are hereby appropriated and shall
3 be held in trust by the Secretary of the Treasury for the
4 benefit of the Department of State (including the Foreign
5 Service). The Secretary of the Treasury may invest and rein-
6 vest such funds in interest-bearing obligations of the United
7 States or in obligations guaranteed as to both principal and
8 interest by the United States. Such funds and the income
9 from such investments shall be available for expenditure in
10 the operation of the Department of State (including the For-
11 eign Service) and the performance of its functions, subject to
12 the same examination and audit as is provided for appropri-
13 ations made for the Foreign Service by the Congress.

14 "(c) The evidences of any unconditional gift of intangi-
15 ble personal property (other than money) accepted under sub-
16 section (a), shall be deposited with the Secretary of the
17 Treasury who may hold or liquidate them, except that they
18 shall be liquidated upon the request of the Secretary of State
19 whenever necessary to meet payments required in the oper-
20 ation of the Department of State (including the Foreign Serv-
21 ice) or the performance of its functions.

22 "(d)(1) The Secretary of State shall hold any real prop-
23 erty or any tangible personal property accepted uncondition-
24 ally pursuant to subsection (a) and shall either use such prop-
25 erty for the operation of the Department of State (including

1 the Foreign Service) and the performance of its functions or
2 lease or hire such property, except that any such property
3 not required for the operation of the Department of State
4 (including the Foreign Service) or the performance of its
5 functions may be liquidated by the Secretary of State when-
6 ever in the judgment of the Secretary of State the purposes
7 of the gift will be served thereby. The Secretary of State may
8 insure any property held under this subsection. Except as
9 provided in paragraph (2), the Secretary shall deposit the
10 income from any property held under this subsection with the
11 Secretary of the Treasury as provided in subsection (b).

12 "(2) The income from any real property or tangible per-
13 sonal property held under this subsection shall be available
14 for expenditure at the discretion of the Secretary of State for
15 the maintenance, preservation, or repair and insurance of
16 such property and any proceeds from insurance may be used
17 to restore the property insured.

18 "(e) For the purpose of Federal income, estate, and gift
19 taxes, any gift, devise, or bequest accepted under this section
20 shall be deemed to be a gift, devise, or bequest to and for the
21 use of the United States.

22 "(f) The authorities available to the Secretary of State
23 under this section with respect to the Department of State
24 shall be available to the Director of the International Com-
25 munication Agency and the Director of the United States

1 International Development Cooperation Agency with respect
2 to their respective agencies.

3 "SEC. 26. (a) The Secretary of State may, without
4 regard to section 3106 of title 5, United States Code, author-
5 ize a principal officer of the Foreign Service to procure legal
6 services whenever such services are required for the protec-
7 tion of the interests of the Government or to enable a
8 member of the Service to carry on the member's work
9 efficiently.

10 "(b) The authority available to the Secretary of State
11 under this section shall be available to the Director of the
12 International Communication Agency and the Director of the
13 United States International Development Cooperation
14 Agency with respect to their respective agencies.

15 "SEC. 27. (a) In order to expand employment opportu-
16 nities for family members of United States Government per-
17 sonnel assigned abroad, the Secretary of State shall seek to
18 conclude such bilateral and multilateral agreements as will
19 facilitate the employment of such family members in foreign
20 economies.

21 "(b) Any member of a family of a member of the For-
22 eign Service may accept gainful employment in a foreign
23 country unless such employment—

24 "(1) would violate any law of such country or of
25 the United States; or

1 “(2) could, as certified in writing by the United
2 States chief of mission to such country, damage the in-
3 terests of the United States.

4 “SEC. 28. The Secretary of State may authorize the
5 principal officer of a Foreign Service post to provide for the
6 use of Government owned or leased vehicles located at that
7 post for transportation of United States Government employ-
8 ees and their families when public transportation is unsafe or
9 not available or when such use is advantageous to the
10 Government.

11 “SEC. 29. Whenever the Secretary of State determines
12 that educational facilities are not available, or that existing
13 educational facilities are inadequate, to meet the needs of
14 children of United States citizens stationed outside the
15 United States who are engaged in carrying out Government
16 activities, the Secretary may, in such manner as he deems
17 appropriate and under such regulations as he may prescribe,
18 establish, operate, and maintain primary schools, and school
19 dormitories and related educational facilities for primary and
20 secondary schools, outside the United States, make grants of
21 funds for such purposes, or otherwise provide for such educa-
22 tional facilities. The authorities of the Foreign Service Build-
23 ings Act, 1926, and of paragraphs (h) and (i) of section 3 of
24 this Act, may be utilized by the Secretary in providing assist-
25 ance for educational facilities. Such assistance may include

1 hiring, transporting, and payment of teachers and other nec-
2 essary personnel.

3 "SEC. 30. (a) The remedy—

4 "(1) against the United States provided by sec-
5 tions 1346(b) and 2672 of title 28, United States Code,
6 or

7 "(2) through proceedings for compensation or
8 other benefits from the United States as provided by
9 any other law, where the availability of such benefits
10 precludes a remedy under such sections,

11 for damages for personal injury, including death, allegedly
12 arising from malpractice or negligence of a physician, dentist,
13 nurse, pharmacist, or paramedical (including medical and
14 dental assistants and technicians, nursing assistants, and
15 therapists) or other supporting personnel of the Department
16 of State in furnishing medical care or related services, includ-
17 ing the conducting of clinical studies or investigations, while
18 in the exercise of his or her duties in or for the Department of
19 State or any other Federal department, agency, or instru-
20 mentality shall be exclusive of any other civil action or pro-
21 ceeding by reason of the same subject matter against such
22 physician, dentist, nurse, pharmacist, or paramedical or other
23 supporting personnel (or his or her estate) whose act or omis-
24 sion gave rise to such claim.

1 "(b) The United States Government shall defend any
2 civil action or proceeding brought in any court against any
3 person referred to in subsection (a) of this section (or his or
4 her estate) for any such damage or injury. Any such person
5 against whom such civil action or proceeding is brought shall
6 deliver, within such time after date of service or knowledge
7 of service as may be determined by the Attorney General, all
8 process served upon him or her or an attested true copy
9 thereof to whomever was designated by the Secretary to re-
10 ceive such papers. Such person shall promptly furnish copies
11 of the pleading and process therein to the United States at-
12 torney for the district embracing the place wherein the pro-
13 ceeding is brought, to the Attorney General, and to the
14 Secretary.

15 "(c) Upon a certification by the Attorney General that
16 the defendant was acting within the scope of his or her em-
17 ployment in or for the Department of State or any other Fed-
18 eral department, agency, or instrumentality at the time of the
19 incident out of which the suit arose, any such civil action or
20 proceeding commenced in a State court shall be removed
21 without bond at any time before trial by the Attorney Gener-
22 al to the district court of the United States of the district and
23 division embracing the place wherein it is pending and the
24 proceeding deemed a tort action brought against the United
25 States under the provisions of title 28, United States Code,

1 and all references thereto. Should a United States district
2 court determine on a hearing on a motion to remand held
3 before a trial on the merits that the case so removed is one in
4 which a remedy by suit within the meaning of subsection (a)
5 of this section is not available against the United States, the
6 case shall be remanded to the State court except that where
7 such remedy is precluded because of the availability of a
8 remedy through proceedings for compensation or other bene-
9 fits from the United States as provided by any other law, the
10 case shall be dismissed, but in that event, the running of any
11 limitation of time for commencing, or filing an application or
12 claim in, such proceedings for compensation or other benefits
13 shall be deemed to have been suspended during the pendency
14 of the civil action or proceeding under this section.

15 "(d) The Attorney General may compromise or settle
16 any claim asserted in such civil action or proceeding in the
17 manner provided in section 2677 of title 28, the United
18 States Code, and with the same effect.

19 "(e) For purposes of this section, the provisions of sec-
20 tion 2680(h) of title 28, United States Code, shall not apply
21 to any tort enumerated therein arising out of negligence in
22 the furnishing of medical care or related services, including
23 the conducting of clinical studies or investigations.

24 "(f) The Secretary may, to the extent he deems appro-
25 priate, hold harmless or provide liability insurance for any

1 person to whom the immunity provisions of subsection (a) of
2 this section apply, for damages for personal injury, including
3 death, negligently caused by any such person while acting
4 within the scope of his or her office or employment and as a
5 result of the furnishing of medical care or related services,
6 including the conducting of clinical studies or investigations,
7 if such person is assigned to a foreign area or detailed for
8 service with other than a Federal agency or institution, or if
9 the circumstances are such as are likely to preclude the rem-
10 edies of third persons against the United States provided by
11 sections 1346(b) and 2672 of title 28, United States Code,
12 for such damage or injury:

13 “(g) For purposes of this section, any medical care or
14 related service covered by this section and performed abroad
15 by a covered person at the direction or with the approval of
16 the United States chief of mission or other principal repre-
17 sentative of the United States in the area shall be deemed to
18 be within the scope of employment of the individual perform-
19 ing the service.

20 “SEC. 31. (a) The Secretary of State may authorize and
21 assist in the establishment, maintenance, and operation by
22 civilian officers and employees of the Government of non-
23 Government-operated services and facilities at posts abroad,
24 including the furnishing of space, utilities, and properties
25 owned or leased by the Government for use by its diplomatic,

1 consular, and other missions and posts abroad. The provi-
2 sions of the Foreign Service Buildings Act, 1926 (22 U.S.C.
3 292-300) and section 13 of this Act may be utilized by the
4 Secretary in providing such assistance.

5 "(b) The Secretary may establish and maintain emer-
6 gency commissary or mess services in places abroad where,
7 in the judgment of the Secretary, such services are necessary
8 temporarily to insure the effective and efficient performance
9 of official duties and responsibilities. Reimbursements inci-
10 dent to the maintenance and operation of commissary or
11 mess service under this subsection shall be at not less than
12 cost as determined by the Secretary and shall be used as
13 working funds, except that an amount equal to the amount
14 expended for such services shall be covered into the Treasury
15 as miscellaneous receipts.

16 "(c) Services and facilities established under this section
17 shall be made available, insofar as practicable, to officers and
18 employees of all agencies and their dependents who are sta-
19 tioned in the locality abroad. Such services and facilities shall
20 not be established in localities where another agency oper-
21 ates similar services or facilities unless the Secretary deter-
22 mines that additional services or facilities are necessary.
23 Other agencies shall to the extent practicable avoid duplicat-
24 ing the facilities and services provided or assisted by the Sec-
25 retary under this section.

1 "(d) Charges at any post abroad for a service or facility
2 provided, authorized or assisted under this section shall be at
3 the same rate for all civilian personnel of the Government
4 serviced thereby, and all charges for supplies furnished to
5 such a service or facility abroad by any agency shall be at the
6 same rate as that charged by the furnishing agency to its
7 comparable civilian services and facilities.

8 "SEC. 32. The Secretary of State may pay, without
9 regard to section 5702 of title 5, United States Code, subsist-
10 ence expenses of (1) security officers of the Department of
11 State who are on authorized protective missions, and (2)
12 members of the Foreign Service and employees of the De-
13 partment who are required to spend extraordinary amounts of
14 time in travel status.

15 "SEC. 33. This Act may be cited as the 'State Depart-
16 ment Basic Authorities Act of 1956'.".

17 (b) Section 13(a) of such Act (22 U.S.C. 2684(a)) is
18 amended by striking out "Foreign Service Act of 1946, as
19 amended" and inserting in lieu thereof "Foreign Service Act
20 of 1980".

21 SEC. 2202. PEACE CORPS ACT.—(a) Section 5 of the
22 Peace Corps Act (22 U.S.C. 2504) is amended—

23 (1) in subsection (f)(1)—

24 (A) in subparagraph (A) by striking out "sec-
25 tion 852(a)(1) of the Foreign Service Act of 1946,

1 as amended (22 U.S.C. 1092(a)(1)),” and inserting
2 in lieu thereof “section 816(a) of the Foreign
3 Service Act of 1980”, and

4 (B) in subparagraph (B) by striking out “For-
5 eign Service Act of 1946” and inserting in lieu
6 thereof “Foreign Service Act of 1980”; and

7 (2) in subsection (h)—

8 (A) by striking out “section 1091 of the For-
9 eign Service Act of 1946” and inserting in lieu
10 thereof “section 30 of the State Department
11 Basic Authorities Act of 1956”, and

12 (B) by striking out “Director of ACTION”
13 and inserting in lieu thereof “President”.

14 (b)(1) Section 7(a) of the Peace Corps Act (22 U.S.C.
15 2506(a)) is amended—

16 (A) in paragraph (1)—

17 (i) by striking out “, who shall receive com-
18 pensation at any of the rates provided for persons
19 appointed to the Foreign Service Reserve and
20 Staff under the Foreign Service Act of 1946, as
21 amended (22 U.S.C. 801 et seq.)” and inserting
22 in lieu thereof “which are not authorized to utilize
23 the Foreign Service personnel system, who shall
24 receive compensation at any of the rates estab-

1 lished under section 402 or 403 of the Foreign
2 Service Act of 1980";

3 (ii) by striking out "section 528" and inserting
4 in lieu thereof "section 310"; and

5 (iii) by striking out "Reserve" the last place
6 it appears and all that follows and inserting in
7 lieu thereof a period; and

8 (B) by amending paragraph (2) to read as follows:

9 "(2) The President may utilize such authority contained
10 in the Foreign Service Act of 1980 relating to members of
11 the Foreign Service and other United States Government of-
12 ficers and employees as the President deems necessary to
13 carry out functions under this Act, except that—

14 "(A) no Foreign Service appointment or assign-
15 ment under this paragraph shall be for a period of
16 more than five years unless the Director of the Peace
17 Corps, under special circumstances, personally ap-
18 proves an extension of not more than one year on an
19 individual basis; and

20 "(B) no individual whose Foreign Service appoint-
21 ment or assignment under this paragraph has been ter-
22 minated shall be reappointed or reassigned under this
23 paragraph before the expiration of a period of time
24 equal to the preceding tour of duty of that individual.

1 Such provisions of the Foreign Service Act of 1980 as the
2 President deems appropriate shall apply to individuals ap-
3 pointed or assigned under this paragraph, including in all
4 cases, the provisions of section 310 of that Act, except that
5 (i) the President may by regulation make exceptions to the
6 application of section 310 in cases in which the period of the
7 appointment or assignment exceeds thirty months, (ii) mem-
8 bers of the Foreign Service appointed or assigned pursuant to
9 this paragraph shall receive within-class salary increases in
10 accordance with such regulations as the President may pre-
11 scribe, and (iii) under such regulations as the President may
12 prescribe, individuals who are to perform duties of a more
13 routine nature than are generally performed by members of
14 the Foreign Service assigned to the lowest class of the For-
15 eign Service Schedule may be appointed to an unenumerated
16 class ranking below the lowest class of the Foreign Service
17 Schedule and be paid basic compensation at rates lower than
18 those of the lowest class, except that such rates may be no
19 less than the then applicable minimum wage rate specified in
20 section 6(a)(1) of the Fair Labor Standards Act of 1938 (29
21 U.S.C. 206(a)(1)).".

22 (2) Section 7(a)(4) of the Peace Corps Act (22 U.S.C.
23 2506(a)(4)) is amended—

24 (A) by striking out "Until" and all that follows
25 through "paragraph or" and inserting in lieu thereof

1 "An individual who has received an appointment or as-
2 signment in the Foreign Service under this subsection
3 may, not later than September 30, 1982, or three
4 years";

5 (B) by striking out "such person" and inserting in
6 lieu thereof "such individual"; and

7 (C) by striking out "substantially continuous
8 basis" and inserting in lieu thereof "continuous basis
9 without a break in service of more than three days".

10 (c) Section 13(b) of the Peace Corps Act (22 U.S.C.
11 2512(b)) is amended by striking out "section 872 of the For-
12 eign Service Act of 1946, as amended" and inserting in lieu
13 thereof "section 824 of the Foreign Service Act of 1980,".

14 (d) Section 14(b) of the Peace Corps Act (22 U.S.C.
15 2513(b)) is amended by striking out "section 901 of the For-
16 eign Service Act of 1946 (22 U.S.C. 1131)" and inserting in
17 lieu thereof "section 905 of the Foreign Service Act of
18 1980".

19 (e) Section 15(a) of the Peace Corps Act (22 U.S.C.
20 2514) is amended by striking out "Foreign Service person-
21 nel" and inserting in lieu thereof "members of the Foreign
22 Service".

23 SEC. 2203. FOREIGN ASSISTANCE ACT.—(a) Section
24 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C.
25 2385(d)) is amended to read as follows:

1 "(d) For the purpose of performing functions under this
2 Act outside the United States, the President may employ or
3 assign individuals, or may authorize the employment or as-
4 signment of officers or employees by agencies of the United
5 States Government which are not authorized to utilize the
6 Foreign Service personnel system, who shall receive compen-
7 sation at any of the rates provided for under section 402 or
8 section 403 of the Foreign Service Act of 1980, together
9 with allowances and benefits under that Act. Individuals so
10 employed or assigned shall be entitled, except to the extent
11 that the President may specify otherwise in cases in which
12 the period of employment or assignment exceeds thirty
13 months, to the same benefits as are provided by section 310
14 of that Act for individuals appointed to the Foreign
15 Service.".

16 (b) Section 629(b) of the Foreign Assistance Act of
17 1961 (22 U.S.C. 2389(b)) is amended by striking out "sec-
18 tion 901 of the Foreign Service Act of 1946, as amended (22
19 U.S.C. 1131)" and inserting in lieu thereof "section 905 of
20 the Foreign Service Act of 1980".

21 (c) Section 631(b) of such Act (22 U.S.C. 2391(b)) is
22 amended by amending the second sentence to read as follows:
23 "Such chief shall be entitled to receive such compensation
24 and allowances as are authorized by the Foreign Service Act
25 of 1980, not to exceed those authorized for a chief of mission

1 (as defined in section 102(a)(3) of that Act), as the President
2 shall determine to be appropriate.”.

3 (d) Section 631(c) of such Act (22 U.S.C. 2391(c)) is
4 amended by amending the second sentence to read as follows:
5 “Such person may receive such compensation and allowances
6 as are authorized by the Foreign Service Act of 1980, not to
7 exceed those authorized for a chief of mission (as defined in
8 section 102(a)(3) of that Act), as the President shall deter-
9 mine to be appropriate.”.

10 SEC. 2204. ARMS CONTROL AND DISARMAMENT
11 ACT.—(a) Section 42 of the Arms Control and Disarmament
12 Act (22 U.S.C. 2582) is amended to read as follows:

13 “FOREIGN SERVICE PERSONNEL

14 “SEC. 42. (a) The Secretary of State may authorize the
15 Director to exercise, with respect to members of the Foreign
16 Service appointed or employed for the Agency—

17 “(1) the authority available to the Secretary under
18 the Foreign Service Act of 1980, and

19 “(2) the authority available to the Secretary under
20 any other provisions of law pertaining specifically or
21 applicable generally to members of the Foreign
22 Service.

23 “(b) Limited appointments of members of the Foreign
24 Service for the Agency may be extended or renewed, not-
25 withstanding section 309 of the Foreign Service Act of 1980,

1 so long as the service of the individual under such appoint-
2 ment does not exceed ten consecutive years without a break
3 in service of at least one year.”.

4 (b) Section 48 of the Arms Control and Disarmament
5 Act (22 U.S.C. 2588) is amended by striking out “Foreign
6 Service Act of 1946, as amended” and inserting in lieu
7 thereof “Foreign Service Act of 1980”.

8 SEC. 2205. REPEALED PROVISIONS.—The following
9 are repealed:

10 (1) The Act entitled “An Act to improve,
11 strengthen, and expand the Foreign Service of the
12 United States and to consolidate and revise the laws
13 relating to its administration”, approved August 13,
14 1946, titles I through X of such Act being the Foreign
15 Service Act of 1946 (22 U.S.C. 801–810, 816, 817,
16 821, 826, 827, 841–843, 846, 861, 866–873, 876,
17 877, 881, 882, 886, 889, 890, 896, 900, 901, 902,
18 906–915, 921–924, 926–928, 936–939, 946, 947,
19 951, 961–966, 968, 981, 986, 987, 991–996,
20 1001–1009, 1016, 1017, 1021, 1022, 1026–1028,
21 1031, 1036, 1037–1037c, 1041–1048, 1061–1065,
22 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091,
23 1093, 1095, 1101, 1103–1106, 1111, 1112, 1116,
24 1121, 1131, 1136–1138a, 1139, 1148–1151, and
25 1156–1160).

1 (2) Sections 401 and 413 of the Foreign Relations
2 Authorization Act, Fiscal Year 1979 (92 Stat. 981,
3 986).

4 (3) Section 413 of the Foreign Relations Authori-
5 zation Act, Fiscal Year 1978 (91 Stat. 857).

6 (4) Sections 117, 120, and 522 of the Foreign
7 Relations Authorization Act, Fiscal Year 1977 (90
8 Stat. 827, 829, 846).

9 (5) Section 6 of the Department of State Approp-
10 priations Authorization Act of 1973 (87 Stat. 452).

11 (6) The Act entitled "An Act to promote the for-
12 eign policy of the United States by strengthening and
13 improving the Foreign Service personnel system of the
14 International Communication Agency through estab-
15 lishment of a Foreign Service Information Officer
16 Corps", approved August 20, 1968 (22 U.S.C.
17 929-932, 1221-1234).

18 (7) Section 104(c) of the Mutual Educational and
19 Cultural Exchange Act of 1961 (22 U.S.C. 2454(c)).

20 (8) Subsections (e), (g), (j), and (k) of section 625
21 of the Foreign Assistance Act of 1961 (22 U.S.C.
22 2385 (e), (g), (j), and (k)), except that the repeal of
23 subsection (k) shall not become effective until
24 January 1, 1982.

1 (9) Section 7(b) of the Peace Corps Act (22
2 U.S.C. 2506(b)).

3 (10) Sections 14 and 16 of the Act entitled "An
4 Act to provide certain basic authority for the Depart-
5 ment of State", approved August 1, 1956 (22 U.S.C.
6 2679a, 2680a).

7 (11) Section 124(a)(2) of the International Devel-
8 opment and Food Assistance Act of 1977 (91 Stat.
9 542).

10 (12) The Act entitled "An Act to make certain
11 increases in the annuities of annuitants under the
12 Foreign Service retirement and disability system", ap-
13 proved May 21, 1952 (22 U.S.C. 1077, 1078).

14 (13) The Act entitled "An Act to make certain
15 increases in the annuities of annuitants under the
16 Foreign Service retirement and disability system", ap-
17 proved May 1, 1956 (22 U.S.C. 1079-1079f).

18 (14) The Act entitled "An Act to provide for
19 adjustments in the annuities under the Foreign
20 Service retirement and disability system", approved
21 September 2, 1958 (22 U.S.C. 1079g-1079j).

22 (15) The Act entitled "An Act to provide for ad-
23 justments in the annuities under the Foreign Service
24 retirement and disability system", approved July 12,
25 1960 (22 U.S.C. 1079l).

1 (16) The Foreign Service Annuity Adjustment
2 Act of 1965 (22 U.S.C. 1079m-1079s).

3 SEC. 2206. OTHER CONFORMING AMENDMENTS.—

4 (a)(1) Section 3(b) of the Asian Development Bank Act (22
5 U.S.C. 285a(b)) is amended by striking out the "a Chief of
6 Mission, class 2, within the meaning of the Foreign Service
7 Act of 1946, as amended" and inserting in lieu thereof "a
8 chief of mission under the Foreign Service Act of 1980".

9 (2) The United Nations Participation Act of 1945 is
10 amended—

11 (A) in section 2(g) (22 U.S.C. 287(g)) by striking
12 out "sections 411 and 412 of the Foreign Service Act
13 of 1946 (Public Law 724, Seventy-ninth Congress) for
14 chiefs of mission" and inserting in lieu thereof "sec-
15 tions 401, 402, and 403 of the Foreign Service Act of
16 1980 for chiefs of mission, members of the Senior For-
17 eign Service,"; and

18 (B) in section 8 (22 U.S.C. 287e) by striking out
19 "section 901(3) of the Foreign Service Act of 1946
20 (Public Law 724, Seventy-ninth Congress)" and insert-
21 ing in lieu thereof "section 905 of the Foreign Service
22 Act of 1980".

23 (3) Section 2 of the joint resolution entitled "Joint Res-
24 olution providing for membership and participation by the
25 United States in the United Nations Educational, Scientific,

1 and Cultural Organization, and authorizing an appropriation
2 therefor", approved July 30, 1946 (22 U.S.C. 287n), is
3 amended by striking out "Foreign Service officers in the
4 schedule contained in section 412 of the Foreign Service Act
5 of 1946, as amended," and inserting in lieu thereof "mem-
6 bers of the Senior Foreign Service under section 402 of the
7 Foreign Service Act of 1980, or provided for Foreign Service
8 officers under section 403 of that Act,".

9 (4) Section 2 of the joint resolution entitled "Joint Res-
10 olution providing for membership and participation by the
11 United States in the World Health Organization and author-
12 izing an appropriation therefor", approved June 14, 1948 (22
13 U.S.C. 290a), is amended by striking out "provided by sec-
14 tion 412 of the Foreign Service Act of 1946, as amended,"
15 and inserting in lieu thereof "established under section 402
16 or 403 of the Foreign Service Act of 1980".

17 (5) Section 203(b) of the African Development Fund Act
18 (22 U.S.C. 290g-1(b)) is amended by striking out "a Chief of
19 Mission, class 2, within the meaning of the Foreign Service
20 Act of 1946, as amended" and inserting in lieu thereof "a
21 chief of mission under the Foreign Service Act of 1980".

22 (6) Section 408 of the Mutual Security Act of 1954 (22
23 U.S.C. 1928) is amended—

24 (A) in subsection (a) by striking out "Foreign
25 Service Act of 1946, as amended (22 U.S.C. 801),"

1 and inserting in lieu thereof "Foreign Service Act of
2 1980";

3 (B) in subsection (b) by striking out "chief of mis-
4 sion, class 1, within the meaning of the Foreign Serv-
5 ice Act of 1946, as amended (22 U.S.C. 801)" and in-
6 serting in lieu thereof "chief of mission under the For-
7 eign Service Act of 1980"; and

8 (C) in subsection (c) by striking out "section 529
9 of this Act who are appointed as Foreign Service Re-
10 serve officers may serve for periods of more than five
11 years notwithstanding the limitation in section 522 of
12 the Foreign Service Act of 1946, as amended (22
13 U.S.C. 922)" and inserting in lieu thereof "section 628
14 of the Foreign Assistance Act of 1961 who are mem-
15 bers of the Foreign Service serving under limited ap-
16 pointments may serve for periods of more than five
17 years notwithstanding the limitation in section 309 of
18 the Foreign Service Act of 1980".

19 (7) The International Atomic Energy Agency Participa-
20 tion Act of 1957 is amended—

21 (A) in section 2(d) (22 U.S.C. 2021(d))—

22 (i) in the first sentence by striking out "sec-
23 tions 411 and 412 of the Foreign Service Act of
24 1946, as amended (22 U.S.C. 866, 867), for
25 Chiefs of Mission" and inserting in lieu thereof

1 “sections 401, 402, and 403 of the Foreign Serv-
2 ice Act of 1980 for chiefs of mission, members of
3 the Senior Foreign Service,”, and

4 (ii) in the second sentence by striking out
5 “by Chiefs of Mission” and inserting in lieu there-
6 of “under the Foreign Service Act of 1980 by
7 chiefs of mission, members of the Senior Foreign
8 Service,”; and

9 (B) in section 5 (22 U.S.C. 2024)—

10 (i) by striking out “Foreign Service Act of
11 1946, as amended,” and inserting in lieu thereof
12 “Foreign Service Act of 1980”, and

13 (ii) by striking “Foreign Service Act of
14 1946, as amended;” and inserting in lieu thereof
15 “Foreign Service Act of 1980;”.

16 (8) Section 704(b) of the Center for Cultural and Tech-
17 nical Interchange Between East and West Act of 1960 (22
18 U.S.C. 2056(b)) is amended by striking out “title X, part C
19 of the Foreign Service Act of 1946, as amended” and insert-
20 ing in lieu thereof “section 25 of the State Department Basic
21 Authorities Act of 1956”.

22 (9) Section 104(d) of the Mutual Educational and Cul-
23 tural Exchange Act of 1961 (22 U.S.C. 2454(d)) is amended
24 by striking out “section 528” and all that follows through
25 “such persons” and inserting in lieu thereof “section 310 of

1 the Foreign Service Act of 1980 for individuals appointed to
2 the Foreign Service".

3 (10) Section 5(a) of the Migration and Refugee Assist-
4 ance Act of 1962 (22 U.S.C. 2605(a)) is amended—

5 (A) in paragraph (1) by striking out "Foreign
6 Service personnel" and inserting in lieu thereof "mem-
7 bers of the Foreign Service";

8 (B) in paragraph (2) by striking out "Foreign
9 Service Reserve officers" and inserting in lieu thereof
10 "members of the Foreign Service serving under limited
11 appointments"; and

12 (C) in paragraph (4) by striking out "Foreign
13 Service Act of 1946, as amended (22 U.S.C. 801 et
14 seq.)" and inserting in lieu thereof "Foreign Service
15 Act of 1980".

16 (11) Section 403(c) of the International Development
17 Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by
18 striking out "Foreign Service Act of 1946" and inserting in
19 lieu thereof "Foreign Service Act of 1980".

20 (b)(1) Section 605A(h) of the Act entitled "An Act to
21 provide for greater stability in agriculture; to augment the
22 marketing and disposal of agricultural products; and for other
23 purposes", approved August 28, 1954 (7 U.S.C. 1765a(h)),
24 is amended by striking out "Foreign Service personnel" and
25 inserting in lieu thereof "members of the Foreign Service".

1 (2) Section 606D of such Act (7 U.S.C. 1766c) is
2 amended by striking out "title IX of the Foreign Service Act
3 of 1946" and inserting in lieu thereof "chapter 9 of title I of
4 the Foreign Service Act of 1980".

5 (c)(1) Section 2002(a) of title 10, United States Code, is
6 amended—

7 (A) in the text preceding paragraph (1) by striking
8 out "section 1041 of title 22" and inserting in lieu
9 thereof "section 701(b) of the Foreign Service Act of
10 1980"; and

11 (B) in paragraph (2) by striking out "section 1041
12 of title 22" and inserting in lieu thereof "section
13 701(a) of the Foreign Service Act of 1980".

14 (d) Section 8(a)(1) of the Defense Department Overseas
15 Teachers Pay and Personnel Practices Act (20 U.S.C.
16 906(a)(1)) is amended by striking out "section 901(2) of the
17 Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and in-
18 serting in lieu thereof "section 5924 of title 5, United States
19 Code".

20 (e)(1) Section 104(a)(4) of the Internal Revenue Code of
21 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "sec-
22 tion 831 of the Foreign Service Act of 1946, as amended (22
23 U.S.C. 1081)" and inserting in lieu thereof "section 808 of
24 the Foreign Service Act of 1980".

1 (2) Section 170(i) of the Internal Revenue Code of 1954
2 (26 U.S.C 170(i)) is amended by amending paragraph (6) to
3 read as follows:

“(6) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.”.

4 (3) Section 912(1)(A) of the Internal Revenue Code of
5 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

6 “(A) chapter 9 of title I of the Foreign Serv-
7 ice Act of 1980.”.

8 (4) Section 2055(f)(5) of the Internal Revenue Code of
9 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

“(5) For treatment of gifts, devises, or bequests accept-
ed by the Secretary of State, the Director of the Interna-
tional Communication Agency, or the Director of the
United States International Development Cooperation
Agency as gifts, devises, or bequests to or for the use of
the United States, see section 25 of the State Department
Basic Authorities Act of 1956.”.

10 (f) Section 235 of title 38, United States Code, is
11 amended—

12 (1) in paragraph (1) by striking out “Section 1131
13 of title 22” and inserting in lieu thereof “Section 905
14 of the Foreign Service Act of 1980”;

15 (2) in paragraph (2) by striking out “Section 1136
16 (1), (2), (3), (4), (5), (7), and (11) of title 22” and in-
17 serting in lieu thereof “Sections 901 (1), (2), (3), (4),

1 (7), (8), (9), (11), and (12) of the Foreign Service Act
2 of 1980";

3 (3) in paragraph (3) by striking out "Section 1138
4 of title 22" and inserting in lieu thereof "Section
5 901(13) of the Foreign Service Act of 1980";

6 (4) in paragraph (4) by striking out "Section 1148
7 of title 22" and inserting in lieu thereof "Section 903
8 of the Foreign Service Act of 1980"; and

9 (5) in paragraph (5) by striking out "Section 1156
10 of title 22" and inserting in lieu thereof "Section
11 904(d) of the Foreign Service Act of 1980".

12 (g) Section 415(c) of the Domestic Volunteer Service
13 Act of 1973 (42 U.S.C. 5055(c)) is amended—

14 (1) in paragraph (1) by striking out "section
15 852(a)(1) of the Foreign Service Act of 1946, as
16 amended (22 U.S.C. 1092(a)(1)), and every other" and
17 inserting in lieu thereof "any"; and

18 (2) in paragraph (2) by striking out "Foreign
19 Service Act of 1946" and inserting in lieu thereof
20 "Foreign Service Act of 1980".

21 **SEC. 2207. MODEL FOREIGN LANGUAGE COMPE-**
22 **TENCE POSTS.**—(a) In order to carry out the purposes of
23 section 702 and to help ascertain the relationship between
24 foreign language competence and the effectiveness of repre-
25 sentation of the United States abroad, the Secretary of State

1 shall designate as model foreign language competence posts
2 at least two Foreign Service posts in countries where Eng-
3 lish is not the common language. Such designation shall be
4 made no later than October 1, 1981, and shall be implemen-
5 ted so that no later than October 1, 1983, each Government
6 employee permanently assigned to those posts shall possess
7 an appropriate level of competence in the language common
8 to the country where the post is located. The Secretary of
9 State shall determine appropriate levels of language compe-
10 tence for employees assigned to those posts by reference to
11 the nature of their functions and the standards employed by
12 the Foreign Service Institute.

13 (b) The posts designated under subsection (a) shall con-
14 tinue as model foreign language competence posts at least
15 until September 30, 1985. The Secretary of State shall
16 submit no later than January 31, 1986, a report to the
17 Speaker of the House of Representatives and the Committee
18 on Foreign Relations of the Senate describing the operation
19 of such posts and the costs, advantages and disadvantages
20 associated with meeting the foreign language competence re-
21 quirements of this section.

22 (c) The Secretary of State may authorize exceptions to
23 the requirements of this section if he determines that unan-
24 ticipated exigencies so require. Such exceptions shall be an-

1 nually reported to the Speaker of the House of Representa-
2 tives and the Committee on Foreign Relations of the Senate.

3 CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES

4 CODE

5 SEC. 2301. REEMPLOYMENT RIGHTS.—(a) Chapter 35
6 of title 5, United States Code, is amended by adding at the
7 end thereof the following new subchapter:

8 “SUBCHAPTER VI—REEMPLOYMENT FOLLOWING
9 LIMITED APPOINTMENT IN THE FOREIGN
10 SERVICE

11 **“§ 3597. Reemployment following limited appointment in
12 the Foreign Service**

13 “An employee of any agency who accepts, with the con-
14 sent of the head of that agency, a limited appointment in the
15 Foreign Service under section 309 of the Foreign Service
16 Act of 1980 is entitled, upon the expiration of that appoint-
17 ment, to be reemployed in that employee’s former position or
18 in a corresponding or higher position in that agency. Upon
19 reemployment under this section, an employee shall be enti-
20 tled to any within-grade increases in pay which the employee
21 would have received if the employee had remained in the
22 former position in the agency.”.

23 (b) The analysis for chapter 35 of title 5, United States
24 Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED
APPOINTMENT IN THE FOREIGN SERVICE

"3597. Reemployment following limited appointment in the Foreign Service.".

1 **SEC. 2302. SALARY FOR AMBASSADORS AT LARGE.—**

2 Section 5313 of title 5, United States Code, is amended by
3 adding the following at the end thereof:

4 "Ambassadors at Large.".

5 **SEC. 2303. ADVANCES OF PAY INCIDENT TO DEPAR-**
6 **TURES FROM POSTS ABROAD.—(a) Section 5522(a) of title**
7 **5, United States Code, is amended—**

8 (1) by striking out "evacuation" and inserting in
9 lieu thereof "departure"; and

10 (2) by striking out "is ordered for military or
11 other reasons which create imminent danger to the life
12 or lives of the employee or of his dependents or imme-
13 diate family" and inserting in lieu thereof "is officially
14 authorized or ordered—

15 "(1) from a place outside the United States from
16 which the Secretary of State determines it is in the na-
17 tional interest to require the departure of some or all
18 employees, their dependents, or both; or

19 "(2) from any place where there is imminent
20 danger to the life of the employee or the lives of the
21 dependents or immediate family of the employee".

1 (b) Section 5522(b) of title 5, United States Code, is
2 amended by striking out "evacuation" and inserting in lieu
3 thereof "departure".

4 (c) Section 5523(a)(1) of title 5, United States Code, is
5 amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 "(A) whose departure is authorized or or-
9 dered under section 5522(a) of this title; and";
10 and

11 (2) in subparagraph (B) by striking out "evacua-
12 tion" and inserting in lieu thereof "departure".

13 (d) Section 5523(b) of title 5, United States Code, is
14 amended by striking out "evacuation" both places it appears
15 and inserting in lieu thereof "departure".

16 (e) Section 405a(a) of title 37, United States Code, is
17 amended by striking out "evacuated" and "evacuation"
18 wherever they appear and inserting in lieu thereof "to
19 depart" and "departure", respectively.

20 SEC. 2304. PREMIUM PAY.—Paragraph (2) of section
21 5541 of title 5, United States Code, is amended—

22 (1) by striking out clauses (xiv) and (xv) and in-
23 serting in lieu thereof the following:

24 "(xiv) a member of the Senior Foreign Serv-
25 ice; or"; and

1 (2) by redesignating clause (xvi) as clause (xv).

2 SEC. 2305. SEVERANCE PAY.—Section 5595(a)(2)(vi)
3 of title 5, United States Code, is amended by inserting after
4 “to receive” the following: “benefits under section 609(b)(1)
5 of the Foreign Service Act of 1980 or any”.

6 SEC. 2306. ATTORNEYS FEES IN BACKPAY CASES.—

7 Section 5596(b) of title 5, United States Code, is amended—

8 (1) in paragraph (1)(A)(ii) by inserting “or under
9 chapter 11 of title I of the Foreign Service Act of
10 1980,” immediately after “chapter 71 of this title,”;
11 and

12 (2) in paragraph (3)—

13 (A) by inserting “and (with respect to mem-
14 bers of the Foreign Service) in sections 1101 and
15 1002 of the Foreign Service Act of 1980” imme-
16 diately after “section 7103 of this title”; and

17 (B) by inserting “and (with respect to mem-
18 bers of the Foreign Service) in section 1015 of
19 the Foreign Service Act of 1980” immediately
20 after “section 7116 of this title”.

21 SEC. 2307. SEPARATE MAINTENANCE ALLOW-
22 ANCE.—Section 5924(3) of title 5, United States Code, is
23 amended—

24 (1) by inserting “or authorized” immediately after
25 “compelled”; and

1 (2) by inserting "or who requests such an allow-
2 ance because of special needs or hardship involving the
3 employee or the employee's spouse or dependents,"
4 immediately after "for the convenience of the
5 Government,".

6 SEC. 2308. EDUCATION ALLOWANCE.—Section
7 5924(4)(B) of title 5, United States Code, is amended by
8 striking out "(i)" and all that follows through "each type of
9 education" and inserting in lieu thereof "one annual trip each
10 way for each dependent".

11 SEC. 2309. POSTS REQUIRING SPECIAL INCEN-
12 TIVES.—Section 5925 of title 5, United States Code, is
13 amended—

14 (1) by striking out "A post" in the first sentence
15 and inserting in lieu thereof "(a) A post";

16 (2) by inserting "under this subsection" immedi-
17 ately after "differential" in the last sentence; and

18 (3) by adding at the end thereof the following new
19 subsection:

20 "(b) Any employee granted a differential under subsec-
21 tion (a) of this section may be granted an additional differen-
22 tial for an assignment to a post determined to have especially
23 adverse conditions of environment which warrant additional
24 pay as a recruitment and retention incentive for the filling of

1 positions at that post. An additional differential for any em-
2 ployee under this subsection—

3 “(1) may be paid for each assignment to a post
4 determined to have such conditions;

5 “(2) may be paid periodically or in a lump sum;
6 and

7 “(3) may not exceed 15 percent of the rate of
8 basic pay of that employee for the period served under
9 that assignment.”.

10 SEC. 2310. ADVANCES OF PAY.—(a) Subchapter III of
11 chapter 59 of title 5, United States Code, is amended by
12 adding at the end thereof the following new section:

13 **“§ 5927. Advances of pay**

14 “Up to three months’ pay may be paid in advance to an
15 employee upon the assignment of the employee to a post in a
16 foreign area.”.

17 (b) The analysis of chapter 59 of title 5, United States
18 Code, is amended by inserting after the item relating to sec-
19 tion 5926 the following:

20 “5927. Advances of pay.”.

21 SEC. 2311. DANGER PAY ALLOWANCE.—(a) Sub-
22 chapter III of chapter 59 of title 5, United States Code, as
23 amended by section 2310(a), is further amended by adding at
the end thereof the following new section:

1 **“§ 5928. Danger pay allowance”**

2 “An employee serving in a foreign area may be granted
3 a danger pay allowance on the basis of civil insurrection, civil
4 war, terrorism, or wartime conditions which threaten physi-
5 cal harm or imminent danger to the health or well-being of
6 the employee. A danger pay allowance may not exceed
7 twenty-five percent of the basic pay of the employee, except
8 that if an employee is granted an additional differential under
9 section 5925(b) of this title with respect to an assignment,
10 the sum of that additional differential and any danger pay
11 allowance granted to the employee with respect to that as-
12 signment may not exceed twenty-five percent of the basic
13 pay of the employee.”.

14 (b) The analysis for chapter 59 of title 5, United States
15 Code, as amended by section 2310(b), is further amended
16 by inserting after the item relating to section 5927 the
17 following:

“5928. Danger pay allowance.”

18 SEC. 2312. LEAVE.—(a) Section 6301 of title 5, United
19 States Code, is amended by adding at the end thereof the
20 following new sentence:

21 “Notwithstanding clauses (x)-(xii) of paragraph (2), the term
22 ‘employee’ includes any member of the Senior Foreign Serv-
23 ice or any Foreign Service officer (other than a member or
24 officer serving as chief of mission or in a position which re-
25 quires appointment by and with the advice and consent of the

1 Senate) and any member of the Foreign Service commis-
2 sioned as a diplomatic or consular officer, or both, under sec-
3 tion 312 of the Foreign Service Act of 1980.”.

4 (b) Section 6304 of title 5, United States Code, is
5 amended—

6 (1) in subsection (a) by striking out “and (f)” and
7 inserting in lieu thereof “(f), and (g)”; and

8 (2) by adding at the end thereof the following new
9 subsection:

10 “(g) Annual leave accrued by a member of the Senior
11 Foreign Service shall not be subject to the limitation on accu-
12 mulation otherwise imposed by this section.”.

13 (c) Section 6305(a) of title 5, United States Code, is
14 amended by inserting immediately after “States” in the first
15 sentence “(or after a shorter period of such service if the
16 employee’s assignment is terminated for the convenience of
17 the Government)”.

18 SEC. 2313. RETIREMENT CREDIT FOR IMPRISONED
19 FOREIGN NATIONALS.—Section 8332(b) of title 5, United
20 States Code, is amended by striking out “and” at the end of
21 paragraph (8); by striking out the period at the end of para-
22 graph (9) and inserting in lieu thereof “; and”, and by insert-
23 ing after paragraph (9) the following new paragraph:

24 “(10) periods of imprisonment of a foreign nation-
25 al for which compensation is provided under section

1 410 of the Foreign Service Act of 1980, if the individual
2 (A) was subject to this subchapter during employment with the Government last preceding imprisonment,
3 or (B) is qualified for an annuity under this subchapter on the basis of other service of the individual.”.

7 SEC. 2314. CONFORMING AMENDMENTS TO TITLE
8 5.—(a) Section 3323(c) of title 5, United States Code, is amended by striking out “Foreign Service officer retired under section 1001 or 1002 of title 22 or a Foreign Service staff officer or employee retired under section 1063 of title 12 22” and inserting in lieu thereof “member of the Foreign Service retired under section 812 of the Foreign Service Act of 1980”.

15 (b) Section 5102(c)(2) of title 5, United States Code, is amended by striking out “employees in the Foreign Service of the United States whose pay is fixed under chapter 14 of title 22” and insert in lieu thereof “members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980”.

21 (c)(1) Section 5301(c) of title 5, United States Code, is amended—

23 (A) by inserting “or” at the end of paragraph (1);
24 (B) by striking out paragraph (2); and

1 (C) by redesignating paragraph (3) as paragraph
2 (2).

3 (2) Section 5303(a) of title 5, United States Code, is
4 amended—

5 (A) by inserting “or” at the end of paragraph (1);

6 (B) by redesignating paragraph (3) as paragraph
7 (2);

8 (C) by striking out “; or” at the end of such re-
9 designed paragraph and inserting in lieu thereof a
10 period; and

11 (D) by striking out paragraph (4).

12 (3) Section 5304 of title 5, United States Code, is
13 amended by striking out “chapter 14 of title 22” and insert-
14 ing in lieu thereof “the Foreign Service Act of 1980”.

15 (d) Section 5724(g) of title 5, United States Code, is
16 amended by striking out “chapter 14 of title 22” and insert-
17 ing in lieu thereof “the Foreign Service Act of 1980”.

18 (e) Section 5727(e)(2) of title 5, United States Code, is
19 amended to read as follows:

20 “(2) This section, except subsection (a), does not affect
21 section 403e(4) of title 50.”.

22 (f)(1) Section 6301(2)(xii) of title 5, United States Code,
23 is amended by striking out “an officer who receives pay
24 under section 866 of title 22” and inserting in lieu thereof “a

1 chief of mission (as defined in section 102(a)(3) of the Foreign
2 Service Act of 1980)".

3 (2) Section 6305(b) of title 5, United States Code, is
4 amended by striking out "an officer" and inserting in lieu
5 thereof "a chief of mission".

6 (g) Section 7103(a)(2)(iv) of title 5, United States Code,
7 is amended by striking out "the Agency for International De-
8 velopment; or" and inserting before the semicolon "the
9 United States International Development Cooperation
10 Agency, the Department of Agriculture, or the Department
11 of Commerce".

12 (h) Section 8501(1)(C) of title 5, United States Code, is
13 amended by striking out "Foreign Service personnel for
14 whom special separation allowances are provided under
15 chapter 14 of title 22" and inserting in lieu thereof "mem-
16 bers of the Foreign Service for whom payments are provided
17 under section 609(b)(1) of the Foreign Service Act of 1980".

18 **CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL
19 OVERSIGHT, AND EFFECTIVE DATE**

20 SEC. 2401. SAVING PROVISIONS.—(a) All determina-
21 tions, authorizations, regulations, orders, agreements, exclu-
22 sive recognition of an organization or other actions made,
23 issued, undertaken, entered into, or taken under the authority
24 of the Foreign Service Act of 1946 or any other law re-
25 pealed, modified, or affected by this Act shall continue in full

1 force and effect until modified, revoked, or superseded by ap-
2 propriate authority. Any grievances, claims, or appeals which
3 were filed or made under any such law and are pending reso-
4 lution on the effective date of this Act shall continue to be
5 governed by the provisions repealed, modified, or affected by
6 this Act.

7 (b) This Act shall not affect any increase in annuity or
8 other rights to benefits, which was provided by any provision
9 amended or repealed by this Act, with respect to any individ-
10 ual who became entitled to such benefit prior to the effective
11 date of this Act.

12 (c) References in law to provisions of the Foreign Serv-
13 ice Act of 1946 or other law superseded by this Act shall be
14 deemed to include reference to the corresponding provisions
15 of this Act.

16 SEC. 2402. CONGRESSIONAL OVERSIGHT OF IMPLI-
17 MENTATION.—(a) Within fifteen months after the effective
18 date of this Act, the Secretary of State shall submit to the
19 Speaker of the House of Representatives and to the Commit-
20 tee on Foreign Relations of the Senate a report describing
21 the implementation of this Act during the fiscal year 1981 by
22 the agencies utilizing the Foreign Service personnel system.
23 Such report shall—

24 (1) describe the steps taken and planned in fur-
25 therance of (A) maximum compatibility among such

1 agencies, as provided for in section 203, and (B) the
2 development of uniform policies and procedures and
3 consolidated personnel functions, as provided for in
4 section 204;

5 (2) indicate the progress made by each such
6 agency in the conversion of personnel and position
7 classifications in accordance with chapter 1 of this
8 title; and

9 (3) specify the upper and lower limits planned by
10 each such agency for recruitment, advancement, and
11 retention of members of the Service, as provided for in
12 section 601(c)(2), including with respect to each of the
13 relevant promotion competition groups the projected
14 ranges of rates of appointment, promotion, and attrition
15 over each of the five fiscal years 1981 through 1985.

16 (b) Beginning in 1982, the Secretary of State shall
17 submit each year to the Speaker of the House of Representa-
18 tives and to the Committee on Foreign Relations of the
19 Senate a supplemental report describing any relevant devel-
20 opments with respect to the matters reported on under
21 paragraphs (1) and (2) of subsection (a) and, with respect to
22 paragraph (3) of such subsection, a revised projection of the
23 ranges of rates of appointment, promotion, and attrition over
24 each of the next five years, as well as a comparison of such
25 projections with the projections for the preceding year and

- 1 with actual rates of appointment, promotion, and attrition.
 - 2 The report shall explain fully any deviations from projections
 - 3 reported in the preceding year.
- 4 (c) The Secretary shall consult, in accordance with the
5 procedures set out in section 1013(g), with the exclusive rep-
6 resentative (if any) of members of the Foreign Service in each
7 agency specified in section 1003(a) with respect to steps to
8 be taken in implementing this Act and reported under this
9 section. To that end, each such exclusive representative will
10 have timely access to all relevant information at each stage.
- 11 Each such report shall include the views of each such exclu-
12 sive representative on any and all aspects of the report and
13 the information contained in such report.
- 14 SEC. 2403. EFFECTIVE DATE.—(a) Except as other-
15 wise provided, this Act shall take effect at the end of the 90-
16 day period beginning on the date of enactment of this Act.
- 17 (b) Personnel actions may be taken on and after the
18 effective date of this Act on the basis of any then current
19 Foreign Service evaluation cycle as if this Act had been in
20 effect at the beginning of that cycle.
- 21 (c) Appointments to the Senior Foreign Service by the
22 Secretary of Commerce shall be excluded in the calculation
23 and application of the limitation in section 305(b) until Octo-
24 ber 1, 1985. Prior to that date, the number of members serv-
25 ing in the Senior Foreign Service under limited appointments

1 by the Secretary of Commerce may not exceed 10 at any one
2 time (excluding individuals with reemployment rights under
3 section 310 as career appointees in the Senior Executive
4 Service).

5 (d) Section 812 of this Act, and the repeal of sections
6 631 and 632 of the Foreign Service Act of 1946, shall be
7 effective as of the date of enactment of this Act.

8 (e) The provisions of chapter 8 of title I regarding the
9 rights of any former spouse to any annuity under section
10 814(a) shall apply only with respect to an individual who,
11 after the effective date of this Act, becomes the former
12 spouse of a participant or a former participant in the Foreign
13 Service Retirement and Disability System.

Passed the House of Representatives September 8,
1980.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

By THOMAS E. LADD,

Assistant to the Clerk.

Calendar No. 1020

96TH CONGRESS
2D SESSION

H.R. 6790

AN ACT

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

SEPTEMBER 10 (legislative day, JUNE 12), 1980

Received; read twice and placed on the calendar